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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure

Fifth periodic reports of States parties due in 2013

Israel* **

[Date received: 17 November 2014]

* The fourth periodic report of Israel is contained in document CAT/C/ISR/4; it was considered by the Committee at its 878th and 881st meetings (CAT/C/SR.878 and 881), held on 5 and 6 May 2009. For its consideration, see the Committee's concluding observations (CAT/C/ISR/CO/4).

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I. Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

Question No. 1 of the list of issues (CAT/C/ISR/Q/5) prepared by the Committee

1. Acts and behaviors defined as "torture" under Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT") and Article 7 of the Covenant on Civil and Political Rights ("ICCPR") may constitute offences under the Israeli *Penal Law* 5737-1977 ("*Penal Law*").

2. Infliction of physical harm is criminalized in the *Penal Law* in the chapter on offences concerning harm and wounding.[1] In addition, the *Penal Law* includes an offence of "Assault that causes actual bodily harm" (Section 380). Inflicting mental pain could fall under the offence of "Threats" (Section 192). Furthermore, in certain cases, it may be possible to apply certain related offences: those in the *Penal Law* that criminalize causing mental or physical harm and committing physical, mental or sexual abuse,[2] as well as the offence of "Abuse" provided in Section 65 of the *Military Justice Law 5715-1955* ("*Military Justice Law*"), which concerns a soldier who abuses a person under her/his custody. In addition, Section 277 of the *Penal Law* and Section 119 of the *Military Justice Law* prohibit public servants and soldiers from using or ordering the use of force or violence in order to extort a confession or information.[3] Outside the context of an investigation, the offence of "Abuse of office" under Section 280 of the *Penal Law* prohibits public servants and soldiers from arbitrarily infringing a person's rights while abusing their authority; this could include acts that involve causing mental suffering.[4] Finally, there is a positive duty to attend to the health and livelihood of a helpless person (Section 322 in conjunction with Section 377 of the *Penal Law*), which applies to anyone responsible for a helpless person – that is, a person who is unable to provide for his own sustenance for various reasons, including due to her/his arrest.

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[1] "Harm with aggravating intent" under Section 329 of the Penal Law, "Grievous harm", under Section 333, "Wounding" under Section 334 and "Harm and wounding under aggravating circumstances" under Section 335.

[2] "Violence against a minor or helpless person" and "Abuse of a minor or helpless person" under Sections 368B and 368C of the *Penal Law*.

[3] See for example: Section 277 of the *Penal Law*:

Pressure by public servant

1. A public servant who is doing one of the following, is liable to three years imprisonment:
   (1) Using or ordering to use force or violence against a person, in order to extort from that person or from another person in whom she/he has an interest, a confession of an offence or information concerning an offence;
   (2) Threatening a person or ordering a person to be threatened, with bodily injury or damage to her/his property or of another person in whom that person has an interest in, in order to extort from him/her a confession of an offence or information about an offence.

[4] Section 280 of the *Penal Law*:

Abuse of office

1. A public servant who is doing one of the following, is liable to three years imprisonment:
   (1) while abusing his authority he performs or ordering to perform an arbitrary act that injures the rights of another person;
   (2) [...].

3. Furthermore, abuse or cruel treatment towards a victim of an offence has been legislated to create harsher criminal punishment. Section 40I(a)(3),(4),(10) and (11) of the *Penal Law*, which was amended in the past year as part of Amendment No. 113 to the *Penal Law (Construction of Judicial Discretion in Punishment)* includes "the cruelty, violence and abuse by the perpetrator against the victim of the offence or her/his exploitation" as a factor to be considered by the court for determining punishment which may have aggravated the circumstances of the offence. Additional factors for determination include the damage resulting from the offence or an abuse of power by a public servant whilst performing her/his statutory duties.

4. Although the Convention does not expressly require State Parties to implement a specific crime labeled "torture", a possible legislation of such an offence is currently an issue under review by the Examination and Implementation Team of the Second Turkel Report. The Turkel Commission was appointed by the Israeli Government on 14 June 2010, following the maritime incident of 31 May 2010. In its Second Report the Turkel Commission reviewed Israel's mechanisms for examining and investigating complaints and claims of violations of the laws of armed conflict. One of the Commission's Recommendations (No. 1) was the incorporation of an offence prohibiting torture into the Israeli *Penal Law*.

Question No. 2

Necessity defense

5. The necessity defense, as stipulated in Section 34(11) of the *Penal Law*, is one of the defense claims afforded to a defendant in the criminal proceedings in Israel and remains in Israeli legislation. In H.C.J 5100/94 *The Public Committee against Torture et. al. v. The State of Israel et. al.* (6.9.99), the High Court of Justice held that this defense could apply to a defendant accused of using unnecessary or excessive physical pressure. In 2012, a petition was submitted requesting that the Attorney General instruct the Department for Investigations against Police Officers ("DIPO") to initiate an investigation against employees of the Israel Security Agency ("ISA") in a specific case, according to the petitioners the necessity defense does not apply in this case. This petition is still pending (H.C.J. 5722/12 *Asad Abu Gosh et. al. v. The Attorney General et. al.* (pending)).

ISA interrogators

6. The ISA is responsible by law for the safeguarding of Israel's national security and State institutions from terrorist threats, espionage and other threats. In order to fulfill its purpose, the Agency performs, among other things, interrogations of suspects in terrorist activity, as is done is many countries across the world. The main goal of such interrogations is data gathering, intended to foil and prevent terrorist acts aimed at Israel and its inhabitants.

7. The ISA and its employees act within the limits of the law and are subject to constant internal and external supervision and review, including by the State Comptroller, the State Attorney's Office, the Attorney General, the Knesset (Parliament) and every instance of the courts, including the High Court of Justice.

8. The ISA operates in accordance with the ruling of the High Court of Justice, and specifically the ruling concerning ISA interrogations from 1999 (H.C.J. 5100/94 *The Public Committee against Torture v. The State of Israel* (6.9.99)).

9. The detainees undergoing ISA interrogation receive all the rights to which they are entitled according to Israeli law and international conventions to which Israel is a party,

including the rights to legal representation, medical care and visits by the International Committee of the Red Cross ("ICRC").

10. Furthermore, any case of alleged wrongdoing by an ISA investigator can be referred to the Inspector for Complaints against ISA Interrogators ("Inspector"), as shall be elaborated in Israel's reply to Question 29 below.

11. It should be noted that the mechanism of issuing complaints against the ISA is often used as a method by which to burden and hinder the security agencies in Israel in their ongoing fight against terrorism.

Case law

12. On April 26, 2010, the High Court of Justice, in a panel of three judges headed by the then President Dorit Beinisch (retired), rejected a petition submitted by the Public Committee against Torture requesting that the Court order the ISA to avoid enchainment by handcuffs during their interrogations and to establish rules regarding the use of restraint measures that do not cause pain or harm to interrogatees and the frequency of their use. The State, in its submissions to the Court, stated that when deciding whether or not to use enchainment, the ISA primarily considers the medical situation of an interogatee, whether the interogatee is an elder, a minor under 16, or female. Furthermore, the ISA's decision to ultimately handcuff an interogatee during interrogation will only be allowed after the consideration of the intelligence information concerning her/his violence offences; the age of the interrogatee; the interrogator's assessment of the interrogatee's danger to the public, including the interrogatee behavior during her/his detention and in the interrogation room. The ISA confirmed that every individual complaint is examined according to strict procedures by the Inspector and the Inspector's Supervisor in the State Attorney's Office. Ultimately, given the existence of the complaint procedure and the general nature of the petition, the Court did not find it necessary to consider the data before it supporting the request to end all use of the method of enchainment. The Court further noted that the legal advisor of the ISA reviews the methods in place. Therefore, based on all these reasons, the Court rejected the petition (H.C.J. 5553/09 *The Public Committee against Torture et. al. v. The Prime Minister et. al.* (26.4.10)).

Question No. 3

13. A petition for disclosure of similar details was submitted to the Jerusalem District Court, pursuant to the *Freedom of Information Law* 5758-1998, and rejected by the Court (Ad.P. 8844/08 *The Public Committee against Torture v. The Supervisor of the Freedom of Information Law within the Ministry of Justice* (25.2.09)).

Question No. 4

14. The ISA does not use threats against family members as a method of interrogation. Family members are detained or interrogated only when there are concrete suspicions against them and not for the purpose of creating a misrepresentation to the subjects of interrogation, to illicit information.

15. Complaints by interrogated persons regarding illicit detention of family members are examined by the Inspector and the Inspector's Supervisor in the State Attorney's Office, and in each case, the ISA is called upon to explain the arrest of the family member and the subject-matter connection between the investigation and the detention. A breach of the rules may result in disciplinary or criminal measures against the ISA personnel involved.

Case law

16. On September 9, 2009 the High Court of Justice ruled in a case concerning the alleged practice of ISA investigators to manipulate suspects through various references to the fate of their family members. In particular, the petitioners sought to bring an end to the alleged practice of threatening suspects that harm would come to their family members in the event that they failed to properly cooperate with their investigators.

17. The Court noted that the Assistant to the Attorney General, in his letter to the petitioners, stated that the ISA had examined this issue and had emphasized that detention of an interrogatee's family member is legal when it is done in relation to the same criminal offence. The response of the Assistant to the Attorney General indicated that in such circumstances, there is no hindrance to inform one relative about the detention of the other, including allowing them to meet. However, when a detainee's relative is not arrested (and there are no legal grounds for her/his arrest), there is no justification to create a false display in which the detainee's relative is detained. The Assistant to the Attorney General also noted that there was no cause to take such an action by the ISA, from which a false display was created as if the detainee's father had been detained.

18. During the proceedings, the State stated that since the delivery of the Assistant to the Attorney General's letter, the ISA reiterated the internal procedure on the matter. Also on this basis, the petition was dismissed (H.C.J 3533/08 *Mison Swetti et. al. v. The Israeli Security Agency et. al.* (9.9.09)).

Article 2

Question No. 5

Audio/visual documentation of interrogations

19. The *Criminal Procedure (Interrogation of Suspects) Law* 5762-2002 ("*Criminal Procedure (Interrogation of Suspects) Law*") requires that the Israel Police ("Police") carry out audio or visual recording of criminal suspect questioning (Sections 7 and 11). An exception to such recording has been provided for by Section 17 of the same law, that the Police can be exempt from such video recording in cases dealing with security offences. Though the Police is still required to keep a record of such security investigations in writing as part of the Police obligation to properly document all investigations.

20. The Section 17 exemption is a temporary provision that was extended in 2012 and is scheduled to expire in July 2015. The idea behind the exception is that if, for whatever reason, such a recording reached the hands of the terrorist organizations, it could be used to the advantage of these organizations to study the interrogation procedures and methods. In addition, such documentation may deter interrogatees from providing information, due to the fear that the cooperation with the interrogating authorities will be discovered to or revealed by their families, friends and the terrorist organization to which they belong to.

21. The Ministry of Justice and other relevant Ministries are in the process of analyzing whether the temporary provision related to an exemption for video recording should remain in effect for security related investigations, in particular by analyzing similar procedures used in other countries connected with security-related and terrorist offences. This follows the Ministerial Legislation Committee's examination in July 2012 of the temporary provision, when the Committee ultimately decided that the temporary provision should remain in effect for at least three additional years, given the importance and sensitivity of the security issues the provision is intended to protect. Together with the comparative research of this sensitive area, the Government is also analyzing other possible alternatives to the temporary provision, including the possibly of making the information gathered in

such security investigations protected by a confidentiality privilege, and narrowing the current term "security offence" to mean that the action was carried out in circumstances in which there is a fear of harm to State security or was carried out in connection to an act of terrorism.

22. It should be noted that the Turkel Commission, the Public Commission to Examine the Maritime Incident of 31 May 2010, recommended in its Second Report (February 2013) titled: "Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law" (recommendation No. 15) that there shall be full visual documentation of the ISA interrogations, according to rules that will be determined by the Attorney General in coordination with the Head of the ISA. This recommendation, as all other recommendations, shall be reviewed by the Examination and Implementation Team of the Second Turkel Report's Recommendations.

Case law

23. On February 6, 2013, the High Court of Justice rejected an appeal filed by "Adalah – the Legal Center for Arab Minority Rights in Israel" against the Ministry of Defense, in which the petitioners requested the Court to revoke Section 17 of the *Criminal Procedure (Interrogation of Suspects) Law* and to instruct the ISA to visually document interrogations of suspects in security offences. The Court determined, *inter alia*, that in this case, when the arrangement of the temporary provision and the definition of a "security offence" are being reviewed by the State, the petitioners should wait for the results of the examination. Consequently, the Court found no room to intervene and dismissed the case (H.C.J. 9416/10 *Adalah the Legal Center for Arab Minority Rights in Israel et. al. v. The Ministry of Defense et. al.* (6.2.13)).

Question No. 6

Arraignment before a judge

Criminal offences

24. Section 29 of the *Criminal Procedure (Powers of Enforcement – Arrests) Law* 1996-5756 (*"Criminal Procedure Law (Enforcement Powers – Arrests)"*), specifies that a person arrested without a warrant must be brought before a judge as soon as possible, and no later than 24 hours following the arrest, with special provision being made regarding weekends and holidays. Following the completion of the above measures, the detainee shall be brought promptly before a judge, or released from custody. Section 30 allows for an additional 24 hour extension based on the need to perform an urgent interrogation, which cannot be performed unless the detainee is in custody, and cannot be postponed following her/his arraignment; or if an urgent action must be taken regarding an interrogation in a security-related offence. Following the completion of the above measures, the detainee shall be brought before a judge swiftly, or released from custody.

Security-related offences

25. The maximum times for bringing detainees suspected of security offences before a judge are found within the *Criminal Procedure (Detainee Suspected of Security Offence)(Temporary Provision) Law* 5766-2006 (*"Criminal Procedure (Detainee Suspected of Security Offence) Law"*). Section 3(1) of the Law provides that the appointed officer may delay the arraignment before a judge to a maximum of 48 hours from the time of arrest, if the officer is convinced that the cessation of the investigation would significantly harm the investigation. According to Section 3(2) of the Law, the officer may decide to delay the

arraignment for a further 24 hours if she/he is convinced that the cessation of the investigation would significantly harm the investigation resulting in the foiling of efforts to prevent harm to human lives. In such case the officer must do so in writing and to obtain the approval of the Head of the Investigations Department of the Israel Security Agency (ISA). Section 3(3) of the Law allows the court, under extreme circumstances, in accordance to a request by the Head of the ISA and the approval of the Attorney General, to extend the periods over 72 hours to a maximum of 96 hours, if the court is convinced that the cessation of the investigation would significantly harm the investigation resulting in the foiling of efforts to prevent harm to human lives.

26. According to information brought by the Israel Security Agency before the Knesset Constitution, Law and Justice Committee, in 2013 the arraignment of **3** persons was postponed for no longer than 48 hours in accordance with Section 3(1) of the Law, and the arraignment of **none** was postponed between 72-96 hours in accordance with Section 3(2) of the Law. In 2012 the arraignment of **12** persons was postponed for no longer than 48 hours in accordance with Section 3(1) of the Law, and the arraignment of **eight** was postponed between 72-96 hours in accordance with Section 3(2) of the Law. In 2011 the arraignment of **4** persons was postponed for no longer than 48 hours in accordance with Section 3(1) of the Law, and the arraignment of **none** was postponed between 72-96 hours in accordance with Section 3(2) of the Law. In 2010, the arraignment of **7** persons was postponed for no longer than 48 hours in accordance with Section 3(1) of the Law, and the arraignment of **none** was postponed between 72-96 hours in accordance with Section 3(2) of the Law. In 2009 the arraignment of **5** persons was postponed for no longer than 48 hours in accordance with Section 3(1) of the Law, and the arraignment of **none** was postponed between 72-96 hours in accordance with Section 3(2) of the Law. For further elaboration on this matter, please see "Follow-up responses of Israel to the concluding observations of the Committee against Torture (CAT/C/ISR/CO/4/Add.1)", paras. 10-20.

Access to legal counsel

Criminal offences

27. Within the criminal context, a suspect should be notified upon her/his arrest of her/his right to meet with a lawyer. If there is no restriction by law, the Israeli Prisons Service ("IPS") allows the detainee to meet with her/his lawyer immediately and without need for coordination.

28. For further elaboration on this matter, please see "Follow-up responses of Israel to the concluding observations of the Committee against Torture (CAT/C/ISR/CO/4/Add.1)", paras. 2-8.

Security-related offences

29. Security related offences sometimes call for an exception to immediate access to legal representation, when the detainee is considered as a serious threat to national security and access to legal representation could jeopardize crucial information gathering questioning of the suspect or accused. Section 35 of the *Criminal Procedure Law (Enforcement Powers – Arrests)* provides for this exception and enables investigators to postpone the meeting between a detainee and her/his lawyer up to 21 days.

30. For further elaboration on this matter, please see Follow-up responses of Israel to the concluding observations of the Committee against Torture (CAT/C/ISR/CO/4/Add.1), para. 9.

31. Given the importance of the right to legal representation, a decision to delay a detainee's legal consultation is never arbitrarily made. Any decision to postpone such a

meeting is reached after a full examination of the individual circumstances of the case, the concrete necessity of postponement in each and every case, and the existence of one of the reasons stipulated by law allowing for postponement.

32. Even in a case where a decision is made to postpone the meeting with a lawyer, officials in charge of the investigation tend to only delay the meeting slightly. This is to adhere to a proportionality policy that the delayed access to legal representation should be relative to the seriousness of the offence and the risk of potential harm of the suspect to national security and to allow investigators to review the necessity of this postponement measure according to the development of the investigation.

33. During 2011, against the backdrop of gathered intelligence whereby visits by lawyers were used for coordination and mediation between terrorist organizations and their imprisoned activists or between security prisoners who are members of a terrorist organization who are imprisoned in different prisons, legislative amendments were made to allow for postponed legal representation, when there was a substantial suspicion of the described result. Section 45A of the *Prisons Ordinance (New Version)* 5732-1971 ("*Prisons Ordinance*") was amended to include the clause that when there is a substantial suspicion that allowing the prisoner to meet with a specific lawyer would facilitate the transfer of information between prisoners or between prisoners and persons outside the prison, and there is a fear that transferring the aforementioned information is connected to promoting the activity of a terrorist organization or done under its guidance, the meeting may be postponed. However, this Amendment does not prevent the prisoner from meeting with another lawyer, if she/he decides to do so. Furthermore, the periods of time listed in the section for imposing such a restriction have been amended.

34. During 2012, Section 45A1 was added to the *Prisons Ordinance*. According to this Section, the IPS Commissioner may impose a limit on the number of lawyers with which a prisoner who is a member of a terrorist organization and was convicted of security offences (or a group of such prisoners) may meet concurrently (without imposing restrictions on the identity of the lawyers with which she/he/they meet), if she/he notices that a prisoner is meeting with several lawyers, in a manner that raises substantial suspicion that the meetings are not used for receiving professional counseling, and she/he has a substantial suspicion that these meetings are used to harm State's security, public order or discipline and orders of the prison.

Public Defender Office

35. Pursuant to section 18(a)(7) of the Public Defender Law 5766-1995 ("Public Defender Law"), the Public Defender Order (Representation of Indigent Detainees) 5758-1998 ("Public Defender Order") and the Public Defender Regulations (Eligibility for Representation to Additional Minors) 5758-1998 ("Public Defender Regulations"), all minors who are detained for investigation and all indigent detained adults are eligible to representation by a public defender.

36. In order to fulfill the provisions of the Law and Regulations, the Israeli Public Defender Office operates a system of lawyers on duty and on-call across the country, starting at 7 a.m. until late at night, including on weekends. Since August 2012, there has been an expansion of the working hours to eventually become a 24 hours/day-seven days/week system.

37. The activities of the Public Defender Office have resulted in a significant change in the representation of detainees. Today, according to information gathered by the Public Defender Office, most of the persons that are detained for investigation are being represented by Public Defenders in hearings concerning the extension of their detention. Furthermore, the Public Defender Office often become a major player in the subsequent

criminal proceedings, representing most of the accused in criminal cases in the State of Israel, thus substantially reducing the rate of non-represented defendants in proceedings.

38. As for representation before the courts, the rate of the non-represented defendants in the Magistrates Courts is approximately only 15%. The Public Defender Office estimates that it represents approximately 60% of the defendants in the Magistrates Courts, around 80% of the defendants in the Juvenile Courts, and more than 50% of the defendants in the District Courts.

39. However, with regard to the right to consult a lawyer before and during a police investigation, the Public Defender Office maintains that in the majority of the cases, the Police informs the Public Defender Office of the arrest of the detainees after they were already investigated, so the effectiveness of the exercise of the right to counseling at this time is substantially impaired.

Case law

40. Following a petition to the High Court of Justice in 2011, the military orders were updated to allow military detainees to meet with their lawyer outside working hours. Due to this amendment of Military Ordinance No. 5136, the Court found no room to issue an *order nisi* in this case (H.C.J. 7071/11 *Corporal Sharon Cohen v. The Military Advocate General* (25.7.12)).

41. On January 8, 2012, the Supreme Court accepted an appeal permission request on the grounds that a Public Defender had not been appointed for the defendant, a prisoner, during the time of his petition to the District Court. The Supreme Court ordered that the Public Defender Office must represent the prisoner in his petition, and cancelled the District Court decision (M.A 8702/11 *Roiter v. The State of Israel* (8.1.12)).

42. On November 23, 2011, the High Court of Justice addressed an appeal of an accused, convicted of murder by the Tel Aviv District Court, who argued his conviction should be quashed as it was based on a confession made under threat during his police investigation.

43. The Court determined, *inter alia*, that the petitioner's confession to the police investigators was void since it was given under threats and while he was prevented from meeting his lawyer. The Court reiterated that the right to consult with a lawyer is one of the fundamental rights of detainees, enshrined in the State's law and jurisprudence. The goal of the legal representation in the criminal procedure is to ensure the right to due process. The Court noted that the police investigation was made more problematic since the police investigator told the petitioner that his lawyer did not care about him and could not help him. Ultimately, although the Court decided the confession given to the police investigator was inadmissible, the accused had separately confessed to the police informant and this confession was declared admissible. Consequently, the appeal was rejected on the basis of this second admissible confession (Cr.A. 5956/08 *Saliman Al-Uka v. The State of Israel* (23.11.11)).

44. On November 3, 2010 the Supreme Court ruled that the notice given to someone being held by the Police for investigation should include simultaneously, the information of the right to legal counsel and the right to have a Public Defender appointed. The Court determined that the appropriate time for giving this notice of both these rights, should be prior to the commencement of a person's investigation (Cr.A. 8974/07 *Hunchian Lin v. The State of Israel* (03.11.10)).

45. On August 31, 2010, the Nazareth District Court accepted a petition filed by a security detainee against the IPS, which requested the Court to allow him to meet with his lawyer without any glass partition between them, same as the procedure of meetings of

non-security detainees with their lawyers. The basis for the procedure that meetings between security detainees/prisoners and their lawyers should be with a glass partition, unless the Prison's Director decides in exceptional circumstances to remove the partition, was found in the Israeli Prisons Service Directive Number 04.34.00.

46. The Court ruled, *inter alia*, that the Directive was void and reiterated that the right to counsel is part of the constitutional right to due process, and use of a glass partition between a lawyer and prisoner is an infringement upon this right. The Court noted that although the right to counsel is not absolute, there was no ground for the inclusion of a glass partition and the distinction between security and non-security detainees with regard to the execution of the right to counsel. Thus, the Court accepted the petition allowing the prisoner to meet his lawyer without a glass partition between them (Pr.P.C. 49300-07-10 *Amir Machul v. Israel Prisons Service* (31.8.10)).

Access to a physician

47. Section 9 of the *Criminal Procedure Law (Enforcement Powers – Arrests) Law*, sets the conditions of detention. Sub-section (b)(1) stipulates that a detainee is entitled, *inter alia*, to the medical treatment required to maintain his/her health, and to appropriate supervision conditions as required by a physician. Within this context, Regulation 16 to the *Criminal Regulations (Powers of Enforcement- Arrests)(Conditions of Detention)* 5757-1997 ("*Conditions of Detention Regulations*") stipulates that any detainee requesting medical treatment is entitled to be examined by a medic or a physician at his/her detention facility and also that any detainee is entitled to receive medical treatment necessary to maintain her/his health, according to the determination of a doctor within her/his detention facility, in a manner to be set in the ordinances. In addition, Section 6 of the *Prisons Ordinance* states that any prisoner that enters into the IPS's facilities will be examined by a physician as part of her/his admission process. This provision applies also to detainees.

48. The duties of the physicians working in IPS facilities are to treat the medical needs of the prisoners and detainees. These medical needs supersede any other needs or requirement of the IPS system. The physicians working in IPS facilities perform their duties as required by the law in Israel and by the universal rules of medical ethics. Under this legal and ethical framework they treat detainees and prisoners with full dedication to the detainees' and prisoners' wellbeing, and prepare independent professional opinions on their medical conditions, as required and in full adherence to their medical confidentiality. Any decision regarding the type of treatment or need for medical evacuation is of the medical staff alone. It should be emphasized, that the Police and ISA interrogators are conscious of any complaint made by, and medical problem of, detainees and prisoners and direct them for medical treatment without delay when required.

49. Every IPS detention facility employs a general physician, a dentist, a narcology specialist, a psychiatrist and a professional medic providing regular services. Examinations by expert doctors are made possible in the IPS medical center, prison infirmary and hospital clinics upon request. Where a need arises for a medical specialist or if there is a need of hospitalization, the proper coordination is made with the relevant hospital and the Ministry of Health.

50. In addition, the IPS operates a separate detention wing intended for prisoners with acute physical and mental disabilities in which prisoners with chronic illnesses may be cared.

51. Furthermore, Israeli Prisons Service Directive Number 04.46.00 allows for and regulates private doctors' visitations to prisoners for medical treatment. According to the Directive, a prisoner may be examined by a private doctor at her/his own expense in certain circumstances, subject to a preliminary medical examination by the IPS doctor. However,

as was recently upheld by the High Court of Justice rejecting a prisoner's appeal for a private dentist, when a required medical service is not unique, urgent or lifesaving and the IPS provides a reasonable and adequate alternative medical treatment, the interest of the IPS in providing equal treatment to all prisoners, justifies its rejections of certain requests by prisoners to be treated by private doctors (H.C.J. 1233/13 *Shay Shirazi v. The Israeli Prisons Service* (05.03.13)).

Meeting with family members

52. As a rule, news of the person's arrest is forwarded to her/his family and to the ICRC.

53. The Israeli Law provides that prisoners, administrative detainees and detainees are entitled to family visits: prisoners are entitled to a visit once every two months unless the Prison Director resolved otherwise (Section 47(b) of the *Prisons Ordinance (New Version)* 5731-1971, and Section 19A of the *Prisons Regulations* 5738-1978); administrative detainees are entitled to a visit once every two weeks for a period of 30 minutes (Section 11(a) of the *Emergency Powers (Arrests)(Conditions of Administrative Detention)* 5741-1981; and detainees are entitled to a visit once a week for a period of 30 minutes (Section 12A of the *Criminal Procedure Regulations (Enforcement Powers – Arrests) (Conditions of Detention)* 5757-1997).

54. The Israeli Prisons Service Directive Number 04.42.00 "Arrangement of Visitation of Prisoners" regulates the right of a detainee who is arrested until the completion of legal proceedings against him/her to receive visitors once a week and for a period of 30 minutes. The detention facility's director has discretion to extend the duration of visits and allow additional visitors. A detainee, against whom an indictment has not yet been submitted, may not receive visitors (for fear of effecting the investigation), unless the supervisor of the investigation has approved it. The supervisor may also set conditions for such a visit. As for criminal and security prisoners who have already been convicted, they are entitled to a fortnightly visit of 45 minutes duration. The Directive contains provisions allowing the IPS to prohibit visits by specific visitors, or to a certain prisoner, for a limited period of time, when there is a reasonable suspicion that these visits are used to harm State's security or the safety of the public.

Maintaining contact with families

55. In order to maintain contact with their families, both criminal and security prisoners are entitled to send and receive letters and are entitled to receive family visits (as stated above, unless there is a specific security prohibition on such visitations).

Additional safeguards and remedies available to detainees and prisoners

Legislation

56. Amendment No. 42 to the Prisons *Ordinance* of May 2012, added Sections 11B to 11E to the Ordinance. These Sections require standardized detention conditions for prisoners, including adequate sanitation conditions, medical treatment and supervision according to an IPS physician's determination, bed and mattress, the ability to hold personal items, adequate food and water, cloths, items for personal hygiene, adequate lighting and ventilation, and the ability to go outdoors daily. Additionally, Section 11C provides the right to leisure or educational activities in accordance with Israeli Prisons Service Directives and other Regulations. According to Section 11D, the IPS Commissioner must examine the possibility of rehabilitation of a prisoner who is an Israeli citizen or resident, and will take the necessary steps to ensure maximal integration of that prisoner in rehabilitation activities during her/his time in prison. These Sections include certain exceptions regarding Security Prisoners.

57. Furthermore, during 2012, Section 68A of the *Prisons Ordinance*, concerning administrative release of prisoners for reasons of over-populated detention facilities, has been amended. As part of the amendment, the prisoners demographic to which this section applies, has been reduced to include only prisoners sentenced to less than four years, or those who have been sentenced for longer periods, but the Parole Committee finds them eligible for release on parole (including having served a minimum of two thirds of their sentence). In this amendment the obligation to report to the Knesset was extended to include annual reports regarding the number of prisoners released under administrative release.

58. In 2012, the *Release from Prison on Parole Law* 5761-2001, was amended, including the expansion of Section 7 regarding early release of a prisoner for medical reasons, on certain conditions. The Law now allows the Parole Committee to instruct an early release of a prisoner with severe medical conditions including constant need for artificial respiration, advanced dementia, constant unconsciousness, cancer or the need for transplant surgery, in accordance with conditions specified in the Law.

Case law

59. On January 12, 2014, the Central District Court accepted a petition by several prisoners to re-instate the cancelled Israeli Prisons Service Directive Number 04.41.00, which had allowed private therapists to enter prisons for the preparation of personalized rehabilitation programs for prisoners. The purpose being then to present these proposed rehabilitation programs to the Parole Committee. The Court ruled that in order to allow all prisoners to have a professional opinion regarding rehabilitation presented to the Parole Committee on their behalf, pre-approved therapists need to be allowed to enter the prisons (P.P. 22925-12-13 (Central District Court) *Ben Hayun et al. v. The Israeli Prisons Service et. al.* (12.1.14)).

60. On December 24, 2012, the Supreme Court rejected an appeal submitted by several security prisoners, appealing the decision not to allow them to study their first university degree at the "Open University of Israel": a privilege, however, granted to criminal prisoners. The IPS decision refusing studies was applied to both Jewish and Arab security prisoners. The Court held that there was no legal or constitutional foundation for obliging the IPS to allow prisoners to study in higher education institutes during their imprisonment. The Court deliberated whether the distinction between allowing and disallowing criminal and security prisoners constituted discrimination; however ultimately decided that it was not wrongful discrimination within this context. However, the Court mentioned that several of the security prisoners were already on the verge of completing their first degree when the IPS decision was made, and so suggested that the decision be reviewed in regards to these individual cases. The Court granted these prisoners the right to appeal the IPS decisions in their case to the District Court (Re. Ap. H.C.J 4063/12 *Saeed Saleh v. The Israeli Prisons Service* (24.12.12)). On October 28, 2013 a request for an additional hearing following this judgment by the Supreme Court was granted by the Supreme Court (Ad. h. 204/13 *Saeed Saleh v. The Israeli Prisons Service* (pending)).

61. On March 15, 2012, the Administrative Court accepted a petition of a prisoner, in which the petitioner requested the Court to order the IPS to provide a special meal during Muslim holidays for Muslim prisoners. The Court held that as an administrative authority, the IPS must strictly ensure the right to equality between prisoners, subject to the restriction of their detention. The Court acknowledged that although receiving a special meal was not a basic right of prisoners, given that the IPS had chosen to provide special meals on Jewish religious holidays, the IPS must then also provide this privilege to non-Jewish prisoners on their respective religious holidays. Consequently, the Court accepted the petition (P.Pt 43249-09-11 *Mahmud Magadba v. The Israeli Prisons Service* (15.03.12)).

Question No. 7

Security-related offences detainees meetings with a lawyer

62. Please see Israel's reply to Question 6 above.

63. During the past few years, there has been a conscientious, substantial decrease in the number of detainees whose meetings with their lawyers were postponed due to an ISA interrogation, even though this includes an increased threat to Israeli State security.

64. On the issue of arrest of minors and their representation by the Public Defender's Office, please see Israel's reply to Question 33 below.

Meetings of detainees with their lawyer in the West Bank

Non-application of the Convention against Torture in the "Occupied Palestinian Territory"

65. According to the Israeli legal system, international conventions (as opposed to customary international law), only apply if they are formally legislated by the Knesset. This is the case with the CAT, which is implemented throughout Israel through a wide range of legal instruments, including the country's Basic Laws, laws, orders, regulations, municipal bylaws, and Court rulings.

66. The applicability of the Human Rights Conventions to the West Bank has been the subject of considerable debate in recent years. In its Periodic Reports, Israel did not refer to the implementation of the Convention in these areas for several reasons, ranging from legal considerations to the practical reality.

67. The relationship between different legal spheres, primarily the Law of Armed Conflict and Human Rights Law remains a subject of serious academic and practical debate. For its part, Israel recognizes that there is a profound connection between human rights and the Law of Armed Conflict, and that there may well be a convergence between these two bodies-of-law in some respects. However, in the current state of international law and state-practice worldwide, it is Israel's view that these two systems-of-law, which are codified in separate instruments, remain distinct and apply in different circumstances.

68. Israel's position on the applicability of CAT beyond its territory has been presented at length to the Committee on previous occasions and remains unchanged.

69. Jerusalem and the Golan Heights – In accordance with Section 1 of the *Basic Law: Jerusalem, Capital of Israel* 1980-5740 and Section 1 of the *Golan Heights Law* 1981-5742, Israeli law applies to the eastern neighborhoods of Jerusalem and to the Golan Heights, respectively.

Time between apprehension and appearance before a judge – security-related offences

70. The request for data on the number of persons apprehended pursuant to military legislation and the amount of time between apprehension and appearance before a judge has been addressed above under Question 6.

Question No. 8

Administrative detentions

71. Please see Israel's reply to Question 7 above.

Incarceration of Unlawful Combatants Law 5762-2002

72. On June 11, 2008 the Supreme Court upheld the constitutionality of the *Incarceration of Unlawful Combatants Law* 5762-2002 (*"Incarceration of Unlawful Combatants Law"*), while addressing the substantial legal aspects of unlawful combatant incarceration, for the first time since the Law was enacted in 2002 (Cr.A. 6659/06 *Anonymous v. The State of Israel* (11.6.08)).

73. While reaffirming the legality of the specific incarceration orders, the Supreme Court held that the Law meets the standards of both Israeli constitutional law and the Law of Armed Conflict (applicable to Israel's fight against various terrorist groups) – noting that the Law as a whole does not infringe the right to liberty in a disproportional manner and finding it to be consistent with the administrative detention provisions in the *Fourth Geneva Convention relative to the Treatment of Civilian Persons* (1949).

74. The Supreme Court ultimately held that the principle Sections of the Law had correctly struck the intended delicate balance between international human rights standards and the legitimate security needs of the country, as the Law was designed to address.

75. As for the application of the Law, in the twelve years since the enactment of the *Incarceration of Unlawful Combatants Law*, a total of 50 persons have been detained according to the Law. Twelve persons were detained during the Second Lebanon War in 2006, 30 were detained during operation "Cast Lead" (late 2008-early 2009) and eight on other occasions. **As of October 1, 2014,** there is one person (an adult male) who is detained according to this Law, he was brought for a judicial review of his detention in August and the Be'er-Sheva District Court affirmed his detention. An additional review is scheduled for February 2015, unless he will be released prior to that date.

Question No. 9

Definition of terrorism and security

76. The definition of a "suspect of security offences" in enshrined in several laws. The most updated definition in the legislation is the definition of "security offence" within the Criminal Procedure (Detainee Suspected of Security Offence), "an offence as detailed as follows, when committed under circumstances that might raise a suspicion of harm to the State's security, and linked to terrorist activity". This definition assures the narrow application of the provisions of this law only to those who are suspected in involvement in terrorist activity.

77. The most recent development in the efforts to fight terrorism is the current work on the Fight against Terrorism Bill 5771-2011. In August 2011, this bill was approved by the Knesset in the first reading and is currently under review by the Knesset Constitution, Law and Justice Committee. This bill endeavored to clarify various definitions including "act of terrorism", "terrorist organization" and "member in a terrorist organization". Some of the definitions were adapted to match similar definitions in other countries with a similar justice system to that of Israel. In any case, all of these definitions were carefully drafted to provide law enforcement authorities with effective and precise tools in their fight against terrorist organizations and terrorism, while simultaneously protecting human rights and due process.

78. This bill, upon its enactment will nullify current legislation in the field of counter-terrorism, including: the Prevention of Terrorism Ordinance 5708-1948, Prohibition of Financing Terrorism Law 5761-2005 and some of the Defense Regulation (State of Emergency)1945.

Review of the legislation governing the state of emergency

79. The State of Israel continues to remain in an officially-proclaimed "state of public emergency", as it has since May 19, 1948, four days after its founding. The original declaration of a state of emergency was issued by the Provisional Council of State, in the midst of the war with neighboring states and the local Arab population, which began several months prior to the declaration of Israel's independence on May 14, 1948. Since then, the state of emergency has remained in force due to the ongoing state of war and violent conflict between Israel and its neighbors, including the constant attacks on the lives and property of its citizens.

80. Nevertheless, Israel has been considering refraining from extending the state of emergency any further. This cannot take place immediately, however, as certain laws, orders and regulations are based upon the existence of this state of emergency. Consequently, these legal instruments must be revised, so that crucial matters of the State are not left unregulated when the state of emergency is eventually removed. Importantly, several laws essential to the war against terrorism are contingent on the existence of a declared state of emergency.

81. On December 16, 2013 the Knesset declared a state of emergency for six additional months in order to enable the continued legislative changes. The state of emergency is currently in force until **December 31, 2014**.

82. In preparation for this change, the Ministry of Justice has been reviewing relevant legislation and preparing required amendments. Several laws, which were previously dependent on the state of emergency, have since been repealed or amended, and other legislative changes are in various stages of preparation. In June 2009, the Joint Knesset Committee for Declaring a State of Emergency established a committee to supervise this work, which has become increasingly intensive.

83. On May 8, 2012, Israel's High Court of Justice rejected a petition submitted by the Association for Civil Rights in Israel, to cancel the declared state of emergency in Israel. The Court decided to cancel a previous *order nisi* and to strike off the petition since the proceedings had been exhausted and especially due to the legislative progress to enact and amend laws that would allow the future cancelation of the state of emergency, as they would not be dependent on the state of emergency. The Court held that although the work on this issue was not yet complete, the legislators should be allowed to continue the amendment process already begun; and that the Court should not interfere with these processes. It indicated that the legislature's work already undertaken in this area, demonstrates the authorities' understanding of the need to begin departing from the state of emergency legislation which has been in place since the State's establishment. The Court emphasized, however, that the reality of the Israeli situation is still sensitive and complex and does not allow for leaving the authorities without the necessary powers they require in potential times of emergency. The Court further noted that Israel is a normal State which is not normal – it is a normal State in the sense that it is an active democracy which observes basic rights, among them free elections, freedom of speech, independence of the Courts and legal advice. However it is not normal since the threats over its existence have not yet been lifted, it is the only democracy under such threats and the fight against terrorism still continues and will probably continue in the near future (H.C.J. 3091/99 *the Association of Civil Rights in Israel v. The Knesset* (8.5.12)).

Question No. 10

Solitary confinement

84. Section 56 of the *Prisons Ordinance* outlines 41 prison offences for which a prisoner can be found accountable, including quarreling with other prisoners, destruction of prison property and escaping or attempting to escape the prison. According to Section 58 of the *Prisons Ordinance* one of the penalties, which can be given by an authorized warden is a term in solitary confinement, for no longer than 14 days. However, Section 58 provides that a prisoner will not spend a term longer than seven consecutive days in solitary confinement and will continue the sentence only after an interval of seven days. According to the same section, only the Prison Director or the Deputy Director may impose a sentence longer than seven consecutive days of solitary confinement.

85. It should be noted that Israeli Prisons Service Directive Number 04.13.00 "Disciplinary Rules for Prisoners", which was updated on September 20, 2011, includes a table that details the maximal punishment for each offence, according to the particular circumstances. According to this table, some offences are not punishable by solitary confinement; for others, solitary confinement is limited to seven days.

86. The Supreme Court has interpreted this authority by stating that the confinement of a prisoner under secluded and unsociable conditions constitutes an extraordinary action, as life among other human beings constitutes a basic human need. Accordingly, such living conditions may be deprived or limited only given special and substantial grounds. Even providing that such grounds existed, placing prisoners under such conditions must be limited to the minimal duration necessary, and the authorized agency must continuously reevaluate the need for these conditions, as part of its duty to limit the harm caused to prisoners. The Court further ruled that the longer the duration of the secluded conditions, the greater the burden on the authorized agency to explain the necessity in doing so (Ap.R.P. 10/06 *Atias v. The IPS* (9.5.06)). This ruling was reaffirmed in Ap.R.P. 8048/10 *Abutbul v. Israel* (24.2.11).

87. On April 14, 2010, the High Court of Justice dealt with a petition concerning the above-mentioned Section 58 of the *Prisons Ordinance* which establishes the terms for holding prisoners in solitary confinement. The petitioner claimed that the Section was in contravention of the *Basic Law: Human Dignity and Liberty*, since it denies the prisoner's right to proper living conditions that allow for a dignified, healthy existence. It was further claimed that the use of solitary confinement under this section amounts to a cruel and degrading form of punishment.

88. Ultimately, the Court dismissed the petition and held that Section 58 of the *Prison Ordinance* was compatible with the *Basic Law: Human Dignity and Liberty* (H.C.J. 1475/10 *Moshe Cohen v. The State of Israel* (14.4.10)).

Question No. 11

Solitary confinement

89. The IPS is not able to provide aggregated data on the use of this measure, as it is used mostly for short periods of time, commonly two to three days, in accordance with the provision detailed in the reply to Question 10 above.

Family visits of Palestinian prisoners

Visitation of prisoners by families from the West Bank

90. The State of Israel acknowledges the importance of maintaining family visitations, and as clarified in H.C.J. 11198/02 *Salah Diria v. The Head of the Military Detention Facility* (16.2.03) – "The State does not dispute the prisoners' right to receive family visitations".

91. In order to accommodate the visits of immediate family members, a procedure was formed whereby prisoners' family members may file requests through the ICRC, to allow entry into Israel specifically for visitation purposes. If no security hindrance exists to prevent the family member's entry into Israel, a visitation permit to visit the incarcerated relative is granted.

92. The above-mentioned procedure reflects a proper balance between the will and willingness to enable family visitations, and the security considerations that must be taken into account.

93. The State of Israel is committed to enabling family visitations of residents of the West Bank with their family members incarcerated in Israel, and in fact does so while allowing thousands of visits annually.

94. In certain cases, where the security forces provides a security concern regarding the allowance of the relative/s to enter Israel, a visitation permit may still nonetheless be issued; however rather for a shorter duration of 45 days. Upon the permit's expiration, family members are entitled to file a request for the renewal of the permit, subject to an individual security check. The current policy, according to which the objection of the security forces, based on an individual examination can constitute ground to prevent the entry of a resident of the West Bank to visit her/his imprisoned family member, was approved by the High Court of Justice (H.C.J.11515/04 *Nada Muhammad Hassan v. The Commander of the IDF Forces in the West Bank* (10.1.05)).

Family visit program for prisoners from the Gaza Strip

95. Following an Israeli initiative in collaboration with the ICRC on July 16, 2012, the previous "blanket ban" on visits of family members from the Gaza Strip to prisoners has been lifted, allowing prisoners who are Gaza residents to receive family visits whilst detained in Israeli prisons. The visits are coordinated between the Israeli authorities and the ICRC, following security examinations of the relatives requesting entrance into Israel. The visits are arranged on a weekly basis (every Monday). Every week, 50 prisoners are allowed to receive 150 visitors all together. Each prisoner is allowed to receive up to four visitors, not including the prisoner's children under the age of eight.

96. Currently, due to security reasons derived from the latest escalation between Israel and the Hamas terrorist organization, the IDF halted the visits from the Gaza Strip. In this regard, it should be noted that the High Court of Justice determined that the basic humanitarian needs of the residents of the Gaza Strip, that Israel is obligated to provide, do not include entry to Israel for the purpose of prisoners' visitations (H.C.J. 5268/08 *Rami Tzaker Ismail Inbar et. al. v. The Minister of Defense et. al.* (09.12.2009)).

97. With regard to **the provision of medical care** please see Israel's reply to Question 6 above. As described, all prisoners, whether Israeli, Palestinian or otherwise, are provided with the same access to medical care.

Question No. 12

General

98. In recent years the State of Israel has been facing a massive wave of illegal immigration of persons who, in the vast majority of the cases, cross the border illegally from Egypt. This particular border is 220 kilometers long and, until recently, was an open, unfenced border without any real obstacles.

99. According to the estimations of the relevant authorities, by October 5, 2014 over 64,000 persons had entered Israel illegally, and about 47,000 persons are staying in Israel after entering it illegally.

100. The phenomena began with the illegal arrival of a few persons from Sudan, and in 2006, over 700 foreign residents entered Israel illegally, in 2007 about 5,100 were caught, in 2008 – 8,900, in 2009 – 5,300, in 2010 – 14,700, in 2011 – 17,300 and in 2012 10,400 entered Israel illegally. Since mid-2012 until today the numbers of illegal arrivals decreased significantly, with only 45 illegal arrivals during 2013 and 19 in 2014 (until May 21). This decrease is attributed to the building of the fence between Egypt and Israel and the beginning of the implementation of the amended *Prevention of Infiltration (Offences and Jurisdiction) Law* 5772-2012 (*"Prevention of Infiltration Law"*) in June 2012. The majority of the illegal immigrants are from Eritrea (67%) and Sudan (25%) alongside other African countries.

101. In this regard, Israel currently grants protection to more than 45,000 people and providing these individuals access to certain basic human rights without a need to prove *prima facia* that they have an individual claim to stay in Israel. Those individuals amount to approximately 95% of all individuals that entered Israel illegally through its southern border.

102. The problem of controlling its borders while upholding the rule of law is not unique to Israel. Many other countries face similar dilemmas, and Israel cooperates closely with those countries in order to develop the appropriate legal mechanisms to cope with these challenges. However, the situation in Israel tends to be much more complicated than in other developed countries for a few key reasons. Firstly, Israel is the only developed country with a long land border with the African continent – making it a highly-desired destination for land immigration, by cutting the need for expensive and often dangerous transportation, such as by boats. Secondly, in light of the tight control of European borders, many immigrants have turned to Israel instead, believing it to be an easier option to seek for a better economic situation. Thirdly, the current regional instability which touches almost all of Israel's borders, together with the fact that a significant portion of these individuals come from Sudan – a country openly hostile towards Israel and which does not recognize its existence – adds to the security challenges Israel faces. Moreover, many scholars see migration as a regional phenomenon and believe that the policies for coping with it should be regional, rather than national. However, due to Israel's unique situation in the Middle East and lack of regional cooperation, it is impossible for the country to develop regional strategies for cooperation with its neighbors and with countries of origin, as do other states facing similar challenges.

103. This unique situation resulted in the need to take several immediate steps to deal with the large and constant wave of illegal entrance into Israel in the last few years. This includes the construction of a physical barrier on the Egyptian-Israeli border, the expansion of the detention facilities in the south of the country and several amendments to the relevant legislation. These measures are an honest attempt to try and control Israel's borders and reduce the financial incentives attracting arrival in Israel; while simultaneously adhering to the rule of law and respecting the human rights of all individuals in its territory.

Amendments to the Prevention of Infiltration (Offences and Jurisdiction) Law 5714-1954

104. Amendment No. 3 to the *Prevention of Infiltration Law* was enacted on January 18, 2012 as a temporary provision for a period of three years, in order to deal with the large and constant wave of illegal entrance into Israel in the last few years. In the amended Law, an "infiltrator" is defined as: "a person who is not a resident according to the definition in Section 1 of the *Population Registry Law* 5725–1965, who entered Israel other than by way of a border station prescribed by the Minister of Interior according to Section 7 of the *Entry into Israel Law* 5712–1952" ("*Entry into Israel Law*").

105. Under the amended Section 30A of the *Prevention of Infiltration Law*, a person who entered Israel illegally could have been held in detention for a period of up to three years, subject to certain exceptions. This Section was implemented as of June 2012.

106. On September 16, 2013, the High Court of Justice ruled on a petition filed by several NGOs and asylum seekers, regarding the constitutionality of Amendment No. 3 to the *Prevention of Infiltration Law*. An extended panel of nine judges ruled that holding persons in detention for up to three years, subject to certain exceptions according to Section 30A under the Amended Law, constituted a material violation of their rights, including liberty and dignity, as enshrined in the *Basic Law: Human Dignity and Liberty*. The Court determined that this violation did not meet the proportionality criteria contained in the Basic Law, and was therefore unconstitutional. Consequently, the Court annulled Section 30A of the Amended Law. Furthermore, the State was given 90 days to examine the possibility of releasing the 1,750 people held in detention pursuant to this Section, on the basis of Section 13F of the *Entry into Israel Law*, which was deemed applicable (H.C.J. 7146/12 *Naget Serg Adam et. al. v. The Knesset et. al.* (16.9.13)).

107. On December 10, 2013, the Knesset approved Amendment No. 4 to the *Prevention of Infiltration Law* (described below), which was drafted, *inter alia*, following the High Court of Justice's ruling that annulled Section 30A of Amendment No. 3, to the Law. Amendment No. 4 to the *Prevention of Infiltration Law* was enacted for a period of three years and was scheduled to expire on December 9, 2016.

108. Amendment No. 4 to the *Prevention of Infiltration Law* included two key changes:

(a) A new version of Section 30A which was annulled by the High Court of Justice is included. It stipulated that a person who enters Israel illegally could be held in detention for a period of up to one year, subject to certain exceptions at the discretion of the Border Control Commissioner at the Ministry of Interior. This amended section applied only to persons who entered Israel illegally after its enactment, as of December 10, 2013;

(b) The establishment of a new "Holot" facility for persons who entered Israel illegally and were already in Israel when the new Section 30A came into existence (stipulated in Chapter 4 of the Amended Law). According to Amendment No. 4, the Border Control Commissioner was authorized to place such persons in the new facility; from which they are allowed to exit during the daytime; however they have a duty to report to the facility three times a day. The facility is closed at night. Amendment No. 4 further stipulated that this new facility shall provide its inhabitants with suitable living conditions, including health, welfare services and a small financial allowance. The new facility's inhabitants are not permitted to work outside the facility, but some are able to do so inside the facility, in exchange for reasonable remuneration. Since the enactment of the Amended Law, and during the deliberations in the Internal Affairs and Environment Committee of the Knesset, the Ministry of the Interior declared that currently no women and children are about to be summand to stay in the new facility.

109. Amendment No. 4 to the *Prevention of Infiltration Law* also set instructions to safeguard order and discipline in the new facility. It also included measures which can be taken in cases of violations of these instructions, including, in some cases, transfer to a detention facility for periods set by the Law.

110. Since the Court's ruling on September 16, 2013 in the *Adam* case, the Population and Immigration Authority at the Ministry of Interior has examined the possibility of releasing the people held in detention pursuant to the previous Amendment No. 3 to the *Prevention of Infiltration Law*. Until December 9, 2013, 1,200 cases were examined and 707 people were released from detention. By December 13 2013, 483 people that were held in "Saharonim" detention facility were transferred to the new facility "Holot". By December 23, 2013, more than 360 of them did not report to the facility, thus violating the rules applied in the facility. Due to this violation of rules some of them were transferred to "Saharonim" detention center.

111. On September 22, 2014, the High Court of Justice ruled on a further petition filed by several NGOs and asylum seekers, regarding the constitutionality of Amendment No. 4 to the *Prevention of Infiltration Law*. The extended panel consisted of nine judges, six of which ruled that holding persons for up to a year in detention constituted a material violation of their rights, including liberty and dignity, as enshrined in the *Basic Law: Human Dignity and Liberty*. The Court determined that this violation did not meet the proportionality criteria contained in the Basic Law, and was therefore unconstitutional. Consequently, the Court annulled Section 30A of the Amended Law, and ruled that the *Entry into Israel Law*, applies instead.

112. Furthermore, the Court (by a majority decision of seven judges) decided to annul Chapter 4 of the Amendment, which established the new "Holot" facility, which annulment is to take effect in 90 days. However, the duty to report to the facility each day at noon was annulled with effect on September 24, 2014, such that until the entry into force of the annulment of Chapter of 4, persons will need to report only in the morning and evening. The Court pointed to the absence of a time limit for staying in the new facility, the duty to report three times a day given that the facility is located far from any locality and the existence of disciplinary measures and sanctions in case of violations of the applicable instructions. The collective effect of these aspects, together with other considerations, led the Court to conclude that Chapter 4 violates the rights enshrined in the *Basic Law: Human Dignity and Liberty* in a manner that does not meet the proportionality criteria contained in the Basic Law, and was therefore unconstitutional (H.C.J. 8425/13 *Gabrislasy et. al. v. The Knesset et. al.* (22.9.14)).

Case law

113. On April 30, 2013, the Administrative Court in Be'er-Sheva accepted a petition filed by an Eritrean woman and her two daughters, aged 8.5 and 11, for their release from custody due to unique humanitarian circumstances. The Court accepted the claim that "minors" may be construed as special humanitarian justification for release under Section 30A(b)(2) of the *Prevention of Infiltration Law*, as amended in January 2012 (Amendment No. 3). The Court held that the release of minors from detention is a matter of judicial discretion, taking into account the minor's age and the particular circumstances, and it is not only limited to unaccompanied minors. The Court further noted that according to Section 30A(b)(1) of the *Prevention of Infiltration Law* as amended, an almost categorical reason for release from custody exists regarding a minor is that the continuation of "holding him/her in custody may cause harm to her/his health and there is no other way to prevent the said harm." The Court held that babies and infants require special treatment due to their young age. The Court also noted that the mere age of the appellants was to be considered a special humanitarian consideration, as their prolonged detention and uncertain

prospects of release (due to Israel's decision not to deport Eritrean citizens), were sure to affect them emotionally and hamper their emotional development. The Court ruled that the matter will be returned to the Detention Review Tribunal of Infiltrators' Custody in order to examine other options for the petitioners, such as placing them in the Carmel shelter in Osffiya, which in recent years housed many women who were released from the "Saharonim" facility (Ad.P. 44920-03-13 *(Be'er-Sheva). Saba Tedsa et. al. v. The Ministry of Interior* (30.4.13)).

Question No. 13

General

114. The State of Israel has been making considerable efforts in its battle against trafficking in persons. Much has been done during the last few years, but more is still required.

115. On 2006 the *Anti-Trafficking Law (Legislation Amendments)*, 5767-2006 was enacted and, *inter alia*, created five offences, which together encompass the main aspects of the trafficking phenomenon. The common denominator of the five core offences is that they all criminalize conduct by which a person is objectified and denied his or her basic human dignity and freedom. All five are punishable with severe prison terms.

Table No. 1
Elaboration of the Five Core Offences in the *Penal Law*

Name	*Section of the Penal Law*	*Description of the Offence*	*Maximum Prison Term*
Trafficking in persons	377A (a)	A transaction in a human being for purpose of (1) organ removal, (2) illicit surrogacy, (3) slavery, (4) forced labor, (5) prostitution, (6) participation in a pornographic publication or exhibition, or (7) committing a sexual offence against the victim.	16 years; 20 years if the victim is a minor
Abduction for the purpose of trafficking	374A	Inducing a person to move from one place to another, by means of threats or force or by fraudulently obtaining her/his consent, for any of the purposes of trafficking in persons as detailed in Section 377A (a).	20 years
Holding a person under conditions of slavery	375A	Holding a person under conditions of slavery for the purpose of work or services, including sexual services.	16 years; 20 years if the victim is a minor
Forced labor	376	Forcing a person to work, whether for remuneration or not by means of force, other means of pressure or threats of force or pressure, or by fraudulently obtaining her/his agreement.	7 years
Causing a person to leave her/his country for purposes of prostitution or slavery	376B	Causing a person to leave the country in which she/he resides in order to engage him/her in prostitution or to hold him/her under conditions of slavery.	10 years

116. In addition, there are various related offences, which are not considered "trafficking" as defined above, yet are often (though not necessarily) related to trafficking, such as pandering, managing a property for the purpose of engaging in prostitution, withholding a passport, charging excessive brokerage fees, etc.

117. During 2013, 39 women in Israel were recognized as victims of trafficking in persons. 31 of them were Sinai victims (see definition in paragraph 120) who were held under conditions of slavery for the purpose of proving sexual services; 26 men were recognized as trafficking in persons victims, 24 of them were Sinai victims who were held under conditions of slavery for the purpose of proving services.

118. In its Trafficking in Persons Report for 2012-2013, the United States' State Department ranked Israel as Tier 1 – a demonstration of the U.S. Government's recognition of Israeli practical efforts taken to fight trafficking in persons ("TIP") and an important external evaluation that Israel is fully meeting the minimal standards required for the eradication of TIP.

119. Some of the measures Israel has taken to prevent, prosecute and rehabilitate TIP during 2013 are as follows:

(a) **Prosecution** – There has been a marked reduction in the overall numbers of cases of trafficking for prostitution and related offences, as compared to the 2012 data. This is the fruit of comprehensive steps (prosecution, prevention and protection) and cooperation between government, civil society and the Knesset.

(b) **Prevention** – Further extensive specialized training has been provided for the personnel of all the relevant branches of Government focusing on identification and cultural sensitivity. This included victim identification training for people working on cases of individuals who entered Israel through the Egyptian border unlawfully, such as judges of the Detention Review Tribunals of Infiltrators' Custody and staff of the detention facilities.

(c) **Rehabilitation** – On December 16, 2013, an additional shelter with 18 places for women who are victims of trafficking was opened ("Tesfa" – Hope). The objective of this shelter is to expand the number of places for women that were identified as victims of trafficking and are eligible to a year of rehabilitation. The shelter gives comprehensive psychosocial solutions, as well as all the other services that are provided at the Ma'agan Shelter. All the shelters are currently equipped to deal with a total of 106 victims of trafficking in persons and slavery: 35 places within the Ma'agan Shelter for women, 35 places in the Atlas Center for men, 18 places within transitional apartments, and 18 places in the additional extension of the Ma'agan Shelter (Tesfa) for women who are victims of trafficking and slavery.

Sinai victims

120. Persons who entered Israel illegally through the Egyptian border crossed through the Sinai Peninsula, and in some cases, while on Egyptian ground, such individuals were held in camps ("Sinai Camps") where they suffered heinous crimes and grave abuse at the hands of their captors, for the purpose of obtaining ransom from their family members in their countries of origin ("Sinai victims").

121. Some of those Sinai victims were forced to provide sexual services to their captives and others, who were compelled to forced labor and were held in slavery conditions, are considered as TIP victims, despite the fact that the offences against them were conducted outside of Israeli borders, by foreign nationals.

122. During 2012, the Deputy State Attorney (Criminal Affairs) directed the Police to investigate complaints regarding heinous abuse in Sinai and determined that under special circumstances, following the conclusion of the investigation, it is possible to consider

indicting a non-Israeli citizen, who is currently present in Israel but participated in the heinous abuse in the Sinai Camps. A specific Directive was issued and circulated on this matter.

Data regarding trafficking in persons: investigations and prosecutions

123. The following table summarizes available Police data regarding investigations and arrests on charges of trafficking in prostitution and related offences:

Table No. 2

Investigations of Trafficking for the Purpose of Prostitution and Related Offences between 2006 and 2013

Year *Offence*	*Penal Law* *Section*	*07*	*08*	*09*	*10*	*11*	*12*	*13*
Trafficking in persons for the purpose of engaging them in prostitution	377A	21	10	6	4	6	13	2
Holding a person under conditions of slavery for purpose of sexual services	375A	No data available				1	2	2
Abduction of a person for the Purpose of Trafficking	374A	No data available				7	3	2
Causing a Person to Leave her/his Country for Purposes of Prostitution	376B	No data available				4	10	1
Total		**21**	**10**	**6**	**4**	**18**	**28**	**7**

Source: Israel Police, 2013.

124. The following table indicates the number of cases that were decided by the Israeli Courts regarding trafficking and related offences in 2013:

Table No. 3

Prosecutions and Convictions – Trafficking for Slavery and Forced Labor – 2013

	Trafficking in Persons for the Purpose of Prostitution and or Related Offences	*Trafficking in Persons for the Purpose of Slavery and Forced Labor and or Related Offences*	*Trafficking in Organs and or Related Offenses*
Indictments	17 cases (22 defendants):[5] • Trafficking offences only: 2 cases (2 defendants) • Trafficking and related offences: 7 cases (8 defendants) • Related offences only: 10 cases (12 defendants)	0 cases (0 defendants): • Trafficking and related offences:0 cases (0 defendants) • Related offences only: 0 cases (0 defendant)	Trafficking in Organs: 0 case (0 defendants)

[5] Note that there is overlap in two of the cases mentioned in this table entry. Few of the cases stated above involved several defendants, of which some were indicted on "trafficking and related offence" charges, and some were indicted on "related offence" charges only. Accordingly, the same cases are mentioned twice in this table entry.

	Trafficking in Persons for the Purpose of Prostitution and or Related Offences	*Trafficking in Persons for the Purpose of Slavery and Forced Labor and or Related Offences*	*Trafficking in Organs and or Related Offenses*
Convictions (including cases from previous years)	24 cases (33 defendants):[6] • Trafficking only: 1 case (1 defendant) • Trafficking and related offences: 8 cases (17 defendants) • Original indictments for Trafficking and related offences resulting in convictions in related offences only: 2 cases (2 defendants) • Related offences only: 13 cases (16 defendants)	3 cases (4 defendants): • Trafficking and related offences: 2 cases (3 defendants) • Related offences only: 1 cases (1 defendants)	2 cases: • Related offences only: 2 cases (3 defendants) Note: the indictment is not under the Penal Law but rather under the Organ Transplant Law 5768-2008 (the "Organ Transplant Law").

Source: Ministry of Justice, 2013

Case law: Trafficking in persons – sentencing

125. In regard to verdicts sentenced for trafficking offenders, please see references to three of the most prominent cases on the issue, rendered in 2012-2013:

Trafficking in persons for the purpose of slavery

126. On September 10, 2013, the Jerusalem District Court convicted a defendant of "holding a person under conditions of slavery" (Section 375A of the *Penal Law*) and of additional and related offences. The defendant committed all the offences against six women that lived with him and bore his children, and against his children and the stepchildren (children of the women) – 17 children in total. The defendant used various vicious methods including starvation, confinement, forced separation between a mother and her infant child, severe assaults, severe sexual assaults and different punishments in order to humiliate them and to prove their total subordination and obedience to him. On October 17, 2013, the defendant was sentenced to 26 years imprisonment, suspended imprisonment and ordered to pay 100,000 NIS (26,246 USD) in compensation to the four complainants. The State Attorney's Office filed an appeal against the leniency of the sentence and the defendant filed an appeal against his conviction and the severity of the punishment. The appeals are scheduled to be heard in November 2014 (S.Cr.C 6749-08-11 *The State of Israel v. Anonymous* (Jerusalem District Court) (10.9.13)).

127. On February 29, 2012, the Jerusalem District Court convicted, for the first time, two defendants for the trafficking offence of "holding a person under conditions of slavery" (Section 375A of the *Penal Law*). The case involved a couple which was charged for

[6] Note that there is overlap in few of the cases mentioned in this table cell. Few of the cases stated above involved several defendants, of which some were indicted on "trafficking and related offence" charges, and some were indicted on "related offence" charges only. Accordingly, the same cases are mentioned twice in this table entry. Furthermore, some were originally charged with TIP and eventually convicted with related offences only, while others in the same indictment were convicted with TIP. Note that out of the 24 cases 13 were indicted during 2013 and sentenced during 2013. In four cases the defendants were convicted during 2012 and were sentenced in 2013. Out of the 24 cases, in three there were convictions and the defendants are awaiting sentence.

abusive behavior and imposing slavery conditions towards its Philippino domestic care giver. Although the circumstances did not include physical violence, the couple removed and withheld the victim's passport. Moreover, during her 22 month employment period, she was denied basic rights such as work breaks, vacation days and the ability to attend church and to socialize with people outside her employment. Additionally all her movements were supervised, and when the couple went on vacation, they locked her in the house and replaced her cellular phone with one which could only receive incoming calls. Though her employers resided in a spacious villa, she was made to sleep on a folding bed in a hall leading to the bathroom. She worked from 07:00 until 22:00 and sometimes longer, only being allowed two short meal breaks. The victim was locked in the house at all times, aside from a few occasions when she accompanied the family outside the home or ran errands on their behalf, in which cases the defendants carefully followed and watched her.

128. On June 10, 2012, the Court sentenced the defendants to four months' imprisonment, to be served as a suspended prison sentence in the form of community service. Moreover, the Court ordered a 2,000 NIS (524 USD) fine and 15,000 NIS (3,937 USD) to be paid as compensation to the complainant.

129. The Court explained that the lenient sentence was given due to several mitigating circumstances. This, in addition to the fact that this is a precedential conviction, since the limits of this offence have not been set yet.

130. The legislation for the offence of holding a person under conditions of slavery has a minimum sentence of four years imprisonment, unless the Court decides there are special grounds to deviate from this minimum sentence. The grounds must be considered and noted by the Court, as was done in this case.

131. Following their conviction, the defendants appealed to the Supreme Court, their appeal is still pending. Their request to suspend the payment of the fine and compensation was denied by the Supreme Court (Cr.C. 13646-11-10 *The State of Israel v. Ibrahim Julani and Basma Julani* (10.6.12)).

Trafficking in persons for the purpose of prostitution

132. On January 12, 2012, the Tel Aviv-Jaffa District Court convicted Rami Saban and four other defendants for the offence of "trafficking in persons for the purpose of prostitution". This landmark case demonstrates the serious efforts of Israeli authorities, in prosecuting human trafficking offenders.

133. The facts of the case involve a central trafficking figure who operated his "prostitution business" between 1999 and 2008, both in Israel and outside the country. The main indictment was filed against eight defendants who were charged with trafficking in persons for the purpose of prostitution, maintaining several places for the purpose of prostitution (during 1999-2006) and inducing women to leave their country to engage in prostitution and related offences.

134. Evidence presented to the Court indicated that until 2006, victims of trafficking in prostitution were brought to Israel, however by 2007, many were redirected to Cyprus as the "trade" had become too risky, even for experienced traffickers.

135. On May 10, 2012, the defendants were sentenced as follows:

136. **Defendant 1** was sentenced to 16 years imprisonment, concurrent activation of two conditional imprisonments, accumulative to the imprisonment sentence, so that the defendant will serve an overall period of 18 years and 7 months. He was ordered to pay 15,000 NIS (3,937 USD) in compensation to each of the eleven victims, and fined 150,000 NIS (39,370 USD). **Defendant 2** was sentenced to three years' imprisonment, suspended imprisonment, ordered to compensate one of the victims 15,000 NIS (3,937 USD) and fined

20,000 NIS (5,249 USD). **Defendant 3** was sentenced to 10 years' imprisonment, suspended imprisonment, ordered to compensate nine victims of 10,000 NIS (2,624 USD) each and was fined 100,000 NIS (26,246 USD). **Defendant 4** was sentenced to six years' imprisonment, suspended imprisonment, ordered to compensate nine victims 5,000 NIS (1,312 USD) each and fined 60,000 NIS (15,748 USD). **Defendant 7** was sentenced to 12 months' imprisonment, suspended imprisonment, ordered to pay 300,000 NIS (78,740 USD) through forfeiture and fined 10,000 NIS (2,624 USD). One defendant was acquitted, after it was determined that his behavior was immoral but not criminal, whilst another defendant was convicted but had reached a separate plea bargain with the prosecution.

137. The defense lawyers tried to claim that as the phenomenon of trafficking in persons had been vastly eradicated in Israel, it was no longer necessary to create deterrence against it; so the Court should not make an example of this case. The Court rejected this statement and ruled that the required message to be sent was that anyone even considering committing such offences depriving another person of his or her liberty and controlling him or her in such a way, would receive the most serious of punishments (S.Cr.C. 1016/09 *The State of Israel v. Rami Saban* (12.1.12)).

138. These five defendants have since submitted appeals to the Supreme Court which has resulted in the following amendments to some of the sentences: the sentence of **Defendant 2** was reduced to 16 months and 10 days imprisonment; the sentence of **Defendant 3** was reduced to eight years and the Court added a fine of 1,235,745 NIS (324,342 USD); the sentence of **Defendant 4** was reduced to four years and ten months, as he was acquitted of two offences previously upheld by the Tel Aviv-Jaffa District Court. Following this acquittal, his ordered compensation for two of the victims was cancelled; the sentence of **Defendant 7** was reduced to six months imprisonment and the Court added a fine of 300,000 NIS (78,740 USD). (Cr. A. 4031/12 *The State of Israel v. Rami Saban* (11.12.13)).

Question No. 14

Legislation

139. Israel's *Penal Law* expressly contains special provisions aimed at combating domestic violence and specifically protecting minors and vulnerable individuals from such abuse. For instance, various offences of violence in the *Penal Law* set harsher sentences when these crimes are conducted against family members – an assault against a family member, including spouses – doubles the maximum sentence applied in non-family circumstances. Similarly, "sexual assault against a minor" or "an abuse of a minor" set harsher punishments when the offender is the minor's guardian.

140. In addition, the *Prevention of Domestic Violence Law* 5751-1991 ("*Prevention of Domestic Violence Law*") enables victims of domestic violence to request the Court to issue protection orders, especially restraining orders and other protection measures, by a simple and accessible procedure created for cases of domestic violence. Furthermore, the *Rights of Victims of Crime Law* 5761-2001 ("*Rights of Victims of Crime Law*") provides protection of victims' rights in criminal investigations and for their involvement through all stages of legal proceedings.

National domestic and sexual violence investigative mechanism

141. Owing to their special characteristics, domestic violence offences require special treatment. Accordingly, a specially trained task force of 220 investigators specializing in the investigation and treatment of domestic violence and sex offences exists in Israel. Operating since 1998, the task force now has investigators in every police station around the country. As part of the Police work in dealing with violent offences against women,

there is a special emphasis on conducting full investigations of complaints and on collaborating with other government officials providing treatment within the community.

142. Due to the realization that treatment of domestic violence offences requires multi-disciplinary intervention, the Police joined the "Police Social Workers" project. This is a joint venture by the Ministry of Social Affairs and Social Services, the Police and the Ministry of Public Security. This project is currently operating in 19 municipalities, as part of the national Centers for the Treatment and Prevention of Domestic Violence, together with 16 police stations. In the framework of this project, the social worker conducts "real time" meetings with victims or the assailants, or shortly after the complaint is submitted, which allow for a prompt preliminary diagnosis and threat assessment in the police stations.

Measures to combat violence against minors

143. The treatment of cases concerning domestic violence and violence against minors is prioritized within the various District Attorneys' Offices. The different units try to handle these cases within time frames which are much shorter than the maximum periods of time provided by law or by the State Attorney's Guidelines. Furthermore, many cases in such offences are handled as "arrest cases", meaning the suspect is investigated in custody and the case is forwarded to the prosecution in order to submit a request for detention until the completion of proceedings during the detainee's arrest period. Various directives provided by the State Attorney emphasize the need to treat these cases with extra sensitivity, and include several considerations that should guide the prosecutors, for instance when conducting a plea bargain, sentencing hearings etc.

Training on domestic and sexual violence

144. The Police special task force on domestic violence investigations goes through intensive training, which includes, among other, two one-week courses regarding sexual offences and domestic violence. The training introduces Police guidelines on the issue and includes focused studies on the specific aspects of domestic violence, providing theoretical and practical information as to the social, legislative and judicial requirements and realities. For example, the participants take part in lectures and discussions regarding risk assessment, prevention of access to weapons, specific provisions of legislation, treatment of battering men, special characteristics of child-witnesses of domestic violence, models for collaboration with different welfare bodies, protection orders and their violations. In addition, the participants take part in a workshop aimed at encouraging victims of violence to come forward, including visiting a shelter for battered women. All persons who currently work as domestic violence investigators have taken part in this training, and have been subsequently approved to treat cases of domestic violence. In addition to this initial training, continued in-depth seminars and advanced studies are conducted on domestic and sexual violence, including providing updates of legislation, policy or information in this field. Furthermore, as part of weekly meetings within the various police units, all policemen are informed of new Court rulings, legislation, procedures and instructions in domestic violence treatment.

145. State Attorney's lawyers also undergo professional training to deal with offences of domestic violence and sexual offences within the family and against women in general. Some seminars are conducted by the Institute of Legal Training for Attorneys and Legal Advisers in the Ministry of Justice (the "Institute"), whilst others are held by the Haruv Institute (founded by Schusterman Foundation Israel (SFI)). Additionally, seminars conducted in the prosecution units and guest lectures are occasionally dedicated to this topic.

146. Moreover, the Jerusalem District Legal Aid Administration works in close cooperation with the Center for Treatment and Prevention of Domestic Violence in

Jerusalem. This includes conducting think-tanks headed by judges who run joint seminars for lawyers and social workers from the two organizations and cooperation on specific cases which require both therapeutic and legal attention.

Statistical data on incidents of domestic violence

147. The Police is working to prevent and uncover offences according to the characteristics of the crimes, irrespective of the perpetrator's identity and her/his classification as part of a specific segment of the Israeli population. Therefore, the statistical data is not separated by populations – geographically, religiously or otherwise.

148. As of October 15, 2013, 18,250 domestic violence cases were opened against 20,947 suspects (both men and women). The majority of these complaints were filed by women. In 2012, 21,351 cases of domestic violence were recorded (both of men and women), an increase of 4.8% compared to the number of cases recorded in 2011 (21,384). Of the total number of complaints in 2012, only in 65% of the cases (13,828 cases) women were the victims.

149. The percentages of the total number of domestic violence cases recorded by October 2013, pertained to the following complaints: 7% concerned assault and battery, 17% concerned threat offences, 17% concerned violation of a legal order, 6% concerned malicious damage to property, 1% concerned sexual offences and 12% related to other offences.

150. According to Police data, in 2013 (as at December 19), 15 women were murdered by their spouses in Israel. Of these women, four were new immigrants from the former Soviet Union, one was a new immigrant from Ethiopia, four were foreign citizens and one was an Arab woman. In 2012 (as of the beginning of November), 13 women were murdered by their spouses. This figure represents a slight decrease compared to previous years (20 women were murdered in 2011 and 18 in 2010).

151. During 2011, the Health System reported 4,761 cases of domestic violence and sexual assault of women or girls that were identified by the staff when arriving to receive medical treatment in hospitals, health clinics and mother and child health care clinics. This number is slightly higher than that reported during 2010 of 4,310 incidents. Out of all the cases reported to the health system, 3,772 incidents were located in the hospitals and health clinics and 1,039 in the Mother and Child health clinics.

Safe shelters for victims of domestic violence

152. There are 14 shelters for victims of domestic violence throughout the country; that may accommodate approximately 160 women and 320 children simultaneously. During 2012, 672 women and 992 children resided in these shelters; of which 233 (35%) of the women were from the Arab population, and 351 (52%) were Jewish, out of which 77 women were ultra-orthodox or devoutly religious.

153. Women typically reside in the shelters for a period of several months. As a general rule, the shelters are available, but under unusual circumstances when they are all at full capacity, unique and adequate solutions have been found so that all women ultimately receive an appropriate responses.

154. Two of the above 14 shelters are intended for Arab women, two other shelters have mixed Arab and Jewish women and have Arabic-speaking staff, two shelters are intended for ultra-orthodox Jewish women and two others accommodate women with special needs, in association with the Ministry of Health (each of this special needs shelter can accommodate three women). All of the shelters are operated by organizations and associations chosen by government tenders.

155. On November 5, 2012, the Knesset enacted the *Welfare Service Law (Adaptation Grant for Women who stayed at a Shelter for Battered Women)* 5773-2012 ("*Welfare Service Law (Adaptation Grant for Women who stayed at a Shelter for Battered Women)*"). According to the Law, a woman who stayed at a battered women's shelter at least 60 days, will be entitled to an adaptation grant, provided according to a rehabilitation program within 60 days upon her leaving of the shelter. This is conditional on the fact she does not return to her former permanent place of residence. According to the Law, the grant will be a sum of 8,000 NIS (2,099 USD) for each woman, and for women with children an additional 1,000 NIS (262 USD) will be provided for each child.

156. On December 2, 2013 the Knesset amended the *Welfare Service Law (Adaptation Grant for Women who stayed at a Shelter for Battered Women)* to include that the grant must be paid no later than 60 days after the application for such as grant is submitted.

Treatment and rehabilitation of victims of domestic violence

157. In addition to the shelters described above, the Ministry of Social Affairs and Social Services provides service for treatment of domestic violence, throughout the country. This service is run through 88 centers and units, to men, women and children alike. The treatment can be both individual and/or group treatment. The centers also have inter-governmental programs such as "Friendship and Relationships without Violence" – a preventive program for minors in cooperation with the Ministry of Education, combining the provision of social workers from the centers to work with women who are victims of violence and with violent men in the police stations, and a bridging program for treatment of immigrants (in cooperation with the Ministry of Aliya and Immigrant Absorption).

158. During 2011, the centers for treatment of domestic violence received 11,750 patients: 67% women, 26% men and 7% children. 14% of the patients in the centers were from the Arab population.

159. Furthermore, the Ministry of Social Affairs and Social Services assists non-profit organizations to operate 11 Regional Centers for victims of sexual assault. These centers provide a hotline and first aid services to the victims, and assist them in contacting relevant services within the community. Furthermore, there are five treatment centers providing physical, mental, medical, psychiatric and legal care to the female victims of sexual assault, as well as additional social services, such as employment search and vocational training, with help from associated services within the community.

160. The treatment of female minors who have been victims of sexual assault is conducted both within special units which assist female minors at risk, and in specialized care centers established by the Child and Youth Service within the Ministry of Social Affairs and Social Services. Additionally, most minors' homes intended for female minors operate a designated program for female minors who were the victims of sexual assault. These programs include both individual and group therapy.

Legal support for victims of domestic violence

161. The Legal Aid Law 5732-1972, and the Legal Aid Regulations 5733-1973 ("Legal Aid Regulations"), apply in general three tests for eligibility of legal aid: the legal field of the lawsuit, financial eligibility and likelihood of winning the case. These criteria are applicable in an equal manner to all populations in Israel. Due to the commitment of the Legal Aid Administration's to equality in granting legal aid, the database available is not divided according to populations. However, the Legal Aid Administration is set towards diverse representation; legal teams (including receptionists, administrative workers and lawyers) in the various districts across the country include employees from diverse

populations, and the Legal Aid Administration also offers representation at the various religious courts.

162. The Legal Aid Administration provides representation according to the eligibility criteria provided by law, *inter alia*, in cases under the jurisdiction of the Family Matters Court (Regulation 5(1) to the *Legal Aid Regulations*). Representation is also provided for victims of domestic abuse in various civil proceedings, including:

(a) Requests for a protection order against the violent element under the *Prevention of Domestic Violence Law*;

(b) Submitting a claim for restrictive injunctions and requests for temporary restrictive injunctions in the Family Matters Court;

(c) Submitting a claim for quiet and peaceful residence as part of an alimony claim;

(d) Torts claim against the violent element;

(e) Claim for the annulment of a guardianship.

Representation of Minors in proceedings according to the Youth Law (Care and Supervision) 5720-1960 ("Youth Law – Care")

163. The Youth *Law – Care* regulates the treatment of minors "in need" as defined by law by the welfare authorities. Section 2 defines minors "in need" to include situations such as when the guardian of a minor neglects her/his care and supervision, when a minor is subject to destructive influences, when her/his physical or mental wellbeing may be impaired. Amongst these situations are cases of minors who have experienced abuse and degrading treatment by their parents, family members or others. Section 3 defines the methods of treatment of a minor declared as "in need", including removing the minor from the parents' custody to the custody of welfare services if there is a fear for the minor's physical or mental wellbeing, or her/his development.

164. The Legal Aid Administration is working to provide independent and separate representation for minors in the proceedings before Juvenile Courts, in accordance with the growing global recognition of the need for separate representation for minors. Over the past few years, there has been a substantial increase in the number of minors represented by the Legal Aid Administration in legal proceedings. The Administration has represented minors who have been subject to physical (including sexual) and/or mental abuse within their families, or in other homes in which they have been placed by welfare services, as well as represented minors who were victims of cult violence. The Legal Aid Administration assists in transferring such minors to appropriate places where they can receive appropriate care and attention.

Police handling of domestic violence in different populations

165. The Police is committed towards addressing any complaint or suspicion of an offence, including sexual offences within every population, without discrimination based on religion, race, gender or any cultural consideration.

166. As is often the case within any society, there is a general difficulty in uncovering and reporting incidents of sexual offences and domestic violence. Even more so within conservative communities, where conservative social norms create a culture that prefers resolution of problems internally, and possible imposition of "codes of silence" and refraining from reporting to the authorities. In some cases, these criminal offences are not perceived as illegal, but as legitimate behavior.

167. In attempting to overcome this difficulty, the training provided to investigators in this field directly addresses the question of traditional, conservative populations and the investigation obstacles inherent to such a cultural denomination.

168. Furthermore, the Police is fully committed to involving representatives of aid organizations for the victims of sexual assault during the investigation and the treatment of the victims, including aid centers for victims from both the Arab and the Jewish populations. The relationship between the Police and aid organizations leads to the incorporation of the aid organizations' representatives as companions for the victims of sexual assault from these populations, in order to alleviate the process for them and bridge the gap and difficulty associated with being exposed to police investigation.

169. This contact with the aid organizations contributes to the desire to increase the rate of cases reported within these populations.

Question No. 15

The deadly "Bar Noar" shooting incident

170. On July 8, 2013 the State Attorney's Office filed an indictment against Mr. Hagai Felisian in the Tel-Aviv District Court, accusing him of two counts of murder and 10 counts of attempted murder for the shooting event at the Tel Aviv social and advocacy center "Bar Noar" on August 1, 2009.

171. On March 2014, due to new evidence, this indictment was canceled. Currently the investigation of the incident is still ongoing.

Working connections between the LGBT community and the Police in Tel Aviv-Jaffa

172. Police and representatives of the LGBT Community in Tel Aviv-Jaffa have met on several occasions, during which time the Police invited representatives to contact the Police anytime, on all matters. Since then, a contact person in the central police station in Tel Aviv-Jaffa (Lev Tel Aviv), has been designated to liaise with the LGBT community. The Police station conducts organized and regular surveillance activities in the area of the LGBT center in Meir Garden and in the areas of clubs mainly attended by members of the LGBT community in Tel Aviv-Jaffa. Furthermore, in addition to the routine activity and the daily working relationship with the LGBT community, the Lev Tel Aviv station increases its activities during the Tel Aviv-Jaffa gay pride week and during the pride parade that is held, for several years, in the area of the station.

Demonstrations in Israel

173. Freedom of expression and the right to demonstrate are fundamental democratic rights strongly upheld within the State of Israel. As a rule, restrictions on demonstrations in the State of Israel apply to two kinds of demonstrations, according to Sections 83-85 of the *Police Ordinance (New Version)* 5731-1971 (*"Police Ordinance"*) taking place outdoors. First, in cases of gatherings of more than 50 people who are convening to hear a lecture or speech about a topic of state interest. Second, in cases of marches of more than 50 people. These particular demonstrations require authorization according to the Law. In other kinds of demonstration, such as demonstrations by a smaller group of people, as well as immobile demonstrations which do not include speeches or lectures (however large), usually there is no need for Police authorization and these demonstrations are not subject to any administrative impediments.

174. According to Section 85 of the *Police Ordinance*, the organizer of a demonstration which requires such a permit is required to apply to the Police. The District Commander

has the ability to either authorize the demonstrations without any pre-conditions, to require certain conditions for granting the permit, or to disallow the demonstration altogether.

175. Decisions by the High Court of Justice, as well as the Attorney General's Guidelines, have limited the discretion of the District Commander on this topic, based on the constitutional nature of the right to demonstrate. The right to demonstrate has been recognized by the High Court of Justice as a basic right, either as derived from the freedom of expression or as a distinct liberty of itself (H.C.J. 148/79 *Saar v. The Minister of Interior and of Police* (31.5.79)).

176. The High Court of Justice decisions have held that the Police may only prohibit a demonstration if there is a near certainty of actual damage to another protected interest, such as public safety or if the demonstration entails the committing of a criminal offence (H.C.J. 153/83 *Levy v. The Southern District Commissioner of Police* (13.5.84); H.C.J. 6658/93 *Am Kalavie v. CO Jerusalem Station* (14.7.94)).

177. Additionally, the Police may apply reasonable restrictions regarding the timing, location and manner of demonstration, in order to balance between the right to demonstrate and other rights and interests, such as freedom of movement.

Article 3

Question No. 16

The immediate coordinated return procedure

178. The practice of returning persons who entered Israel illegally through the Egyptian border and were caught by the Israeli Defense Forces ("IDF"), known as the "coordinated return procedure", was put on hold by the IDF in March 2011 due to the recent geo-political changes in Egypt that no longer allowed the former coordination to take place. The Israeli commitment not to use the procedure of coordinated returns to Egypt was stated by the State to the High Court of Justice on March 2011 in H.C.J. 7302/07 *Hotline for Migrant Workers v. The Minister of Defense* (7.7.11), as part of the litigation on the matter. Considering the State's position, the petition was rejected by the Court on the grounds of it becoming a hypothetical petition. The State's commitment on this regard still stands and no coordinated returns are conducted.

Question No. 17

179. Israel signed the Convention Relating to the Status of Refugees (1951) (Refugee Convention) in 1951 and ratified it in 1954. The principle of *non-refoulement* enshrined in Article 33 of the Refugee Convention constitutes a fundamental principle of international law and was enshrined into Israeli case law two decades ago through the High Court of Justice ruling of H.C.J. 4702/94 *Al-Tai v. The Minister of Interior* (11.9.95). In the *Al-Tai* case, the former President of the Supreme Court, Justice Aharon Barak, determined that the principle of *non-refoulement*, according to which a person cannot be deported to a place where her/his life or liberty will be endangered, is not limited only to refugees. Justice Aharon Barak held that the principle of *non-refoulement* is applicable to any government authority decision dealing with the deportation of a person from Israel.

Case law

180. On July 7, 2013, the Supreme Court rejected an appeal filed by several Ivory Coast nationals against the decision to deny their individual requests for asylum. The appellants stayed in Israel as a result of a policy of temporary group *non-refoulement* protection, following the State of Israel's denial of their individual asylum requests. Following the

State's termination of the temporary group *non-refoulement* protection policy, the petitioners requested that their individual asylum requests would be reviewed claiming that while staying in Israel they had joined the FPI political party which subsequently became the opposition party in the Ivory Coast – so they were in danger if they were to be sent back to their country. After reviewing the State's response and the evidence, the Court rejected the appeal stating that the decision of the relevant authorities was reasonable according to the evidence before them. In addition the Court stated that the appellants only proved their membership in the FPI party without demonstrating their engagement in any political activity beyond that membership. Consequently, the Court was not persuaded that the appellants' activity in the Israeli FPI branch was likely to cause their persecution, or threat to their lives or liberty, in the Ivory Coast. The Court examined the individual applications of the appellants, however, ultimately held that the appellants did not prove any overwhelming evidence of any change in circumstances that could entitle them to refugee status. Consequently, the Court held that the lower Court's decision had been given in accordance with the Law and rejected the appeal (Ad.A. 4922/12 *Anonymous v. The Ministry of Interior et. al.* (7.7.13)).

181. On July 7, 2012 the Jerusalem District Court ruled in a petition against the Minister of Interior's decision, following the declaration of independence of Southern Sudan, informing the nationals of Southern Sudan living in Israel that they were required to return to their country. Moreover the decision stated that beginning on April 1, 2012, enforcement activities would be taken against illegal immigrants of Southern Sudan who refuse to leave. According to the Court this decision essentially ended the temporary group *non-refoulement* protection policy which had applied to Southern Sudan nationals. The Court rejected the appeal, stating that due to the respondent notification that an individual examination would be made; there was no basis of the petitioners claim that there was an obligation to continue the policy of temporary group *non-refoulement* protection. The Court further noted that despite the fact that the respondent and the experts agree that the situation in some areas of Southern Sudan is problematic, violent and even dangerous; the petitioners did not substantiate their claim that this was the situation across the whole of Southern Sudan and would consequently endanger every national. The Court further noted that the petitioners did not demonstrate that the decision to stop the temporary policy and return Southern Sudan nationals to their place of origin (or another region in the county that does not endangers their life or liberty), was unreasonable (Ad.P. 53765-03-12 (Jerusalem District Court) *ASSAF the Aia Organization for Refugees and Asylum Seekers in Israel, et. al. v. The Minister of Interior* (7.7.12)).

Question No. 18

182. Israeli law contains two main mechanisms for the deportation of a person who stays illegally in Israel: one is the *Entry into Israel Law* dealing with persons who have no legal permit to stay in Israel, and the other is the *Prevention of Infiltration Law* dealing with persons who entered Israeli illegally, not through an official border crossing point.

183. Section 13 of the *Entry into Israel Law* stipulates that the Minister of Interior may deport a person staying in Israel without a permit illegally, via a deportation order. The deportation order shall be in writing and the person shall not be deported sooner than three days after the order was served to him/her (unless he or she decides to leave earlier). Section 13 authorizes the Border Control Commissioner to delay the deportation for a maximum period of fourteen days, so to allow the person to attend to her/his legal matters in Israel. The Border Control Commissioner may extend this period due to special humanitarian reasons.

184. Over the years the courts have defined the authority of the Minister of Interior under this Section. Accordingly, it has been established that the Minister's discretion is subject to

judicial review and that judicial scrutiny will be exercised in accordance with the court's rules concerning administrative discretion.

185. The discretion of the Minister of Interior under Section 13 has been further defined through a series of Population and immigration Authority Procedures such as Procedure concerning the Issuance of a Deportation Order (No. 01.4.1110), which allows for a stay of deportation in certain cases, based on medical emergencies; Procedure concerning Requests to Delay Deportation/Grant Temporary Status for Medical Reasons (No. 5.2.0038), or humanitarian grounds; Procedure concerning Work of the Inter-Ministerial Committee for Granting Humanitarian Status (No. 5.2.0022).

186. Alternatively, the *Prevention of Infiltration Law* establishes mechanisms for persons who have entered Israel not through a declared crossing point. Section 30(a1) of the *Prevention of Infiltration Law* stipulates that "a deportation order under Sub-section (a) shall not be carried out until after the Minister of Defense or a senior State employee authorized by him/her has determined that this can be done, considering the personal circumstances of the infiltrator and of the country to which she/he is to be deported". According to this Section a person will not be deported without a decision by a high ranking official, on the basis of examining the individual circumstances of the potential-deportee and the country of destination for her/his deportation – two elements forming an integral part of the examination of the danger posed to the life and liberty of a person as a result of deportation.

187. In one of its most important decisions, establishing rules which limited the authority to deport under the *Entry into Israel Law* and the *Prevention of Infiltration Law*, the High Court of Justice ruled, *inter alia*, that the authority to deport must be exercised while taking into account the sanctity of human life and freedom, as established in *Basic Law: Human Dignity and Liberty*. Therefore, the Court ruled that the authority to deport may not be exercised if the deportee's life or liberty is threatened (H.C.J. 4702/94 *Al-Tai v. Minister of Interior* (11.9. 95)).

188. In Ad.P. 7079/12 *The State of Israel v. Asmara Ahunum Germey* (10.12. 12) the Supreme Court reiterated its ruling in *Al-Tai* and determined that the authority to deport was subject to the *non-refoulement* principle, according to which one may not be returned to a country where her/his life is in danger.

189. It should be stressed that issuance of a deportation orders (either through the *Entry into Israel Law* or the *Prevention of Infiltration Law*) is, like all administrative acts in Israel, subject to judicial review and may be challenged through appeal to Administrative Courts.

Question No. 19

190. The State of Israel does not extradite a person to a State where she/he would be in danger of being subject to torture. Accordingly, before signing or ratifying extradition agreements the relevant authorities examine the human rights situation in the State in question, particularly in relation to torture.

191. Extradition proceedings to and from Israel are regulated by the *Extradition Law* 5714-1954 ("*Extradition Law*"). Section 2B(A)(8) of the *Extradition Law* regarding exemptions to extradition stipulates, *inter alia*, that a person will not be extradited to a requesting State when complying with the extradition request might violate public order in Israel. In addition, according to Section 18 of the *Extradition Law*, after a person is declared by a court to be extraditable, the Minister of Justice may order the extradition of the person to the requesting State.

Case law

192. On November 29, 2012, the Supreme Court rejected an appeal filed by Alexander Cvetković against the Attorney General, in which the appellant requested the Court to revoke the Jerusalem District Court's decision to extradite him to Bosnia-Herzegovina for his alleged involvement in genocide and crimes against humanity. The appellant argued that his extradition would violate public order pursuant to Section 2B(a)(8) of the *Extradition Law*. The appellant claimed that his right to due process would not be respected in Bosnia and that harsh prison conditions there would pose danger to his life. The Court held that a violation to public order claim would only be accepted in exceptional cases, where injury to the defendant's right to due process would be extremely severe if he was extradited; which in this case, could not be proven. The Court emphasized that Bosnia-Herzegovina had committed itself to ensuring the safety of the appellant while in its custody – by holding him in a separate wing with adequate supervision and close protection, and guaranteeing that he would be able to receive frequent consular visits. Consequently, the Court rejected Cvetković's request to revoke the lower court's decision to extradite him (Cr.A. *6322/11 Alexander Cvetković v. The Attorney General* (29.11.12)).

193. On March 10, 2010, the High Court of Justice rejected a petition, in which the petitioner claimed that even though he had been declared extraditable by the District Court, the Minister of Justice's decision to extradite him to Ukraine had to be revoked due to new evidence that would create a substantive danger to his life if ultimately extradited. Moreover, the petitioner claimed that the Minister of Justice signed the extradition order without carrying out any serious examination of, or giving due weight to his arguments. The Court noted that Article 3(1) of the CAT stipulates that: "No State Party shall [...] extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture". Accordingly, the High Court of Justice determined that only in extraordinary and exceptional circumstances where there is a well-established and substantial danger to the life of a person if extradited, can the Minister of Justice choose not to order the extradition, according to Section 18 of the *Extradition Law*. In the present case, the Court found that there was no solid factual basis to support the petitioner's arguments, and therefore rejected the petition (H.C.J. 9420/09 *Anonymous v. The Minister of Justice* (10.3.10)).

Question No. 20

Asylum seekers

194. Following are statistics compiled by the Population and Immigration Authority regarding the processing of asylum requests pursuant to the Procedure of Treatment of Asylum Seekers in Israel, entered into force on January 2, 2011. The data is provided for years 2009-2013:

Table No. 4
Processing of Asylum Applications 2009-2013

	2009 (from July)	*2010*	*2011*	*2012*	*2013 (until August)*
Number of applications submitted	4,530	5,391	3,584	1,096	2,593
Number of applications that were rejected prima facie*	----------	----------	3,968	964	98
Number of in depth interviews conducted	1,429	3,688	2,100	1,896	2,968

Source: Ministry of Interior, Population and immigration Authority 2013.

* The prima facie rejection procedure entered into force at the end of 2010.

Table No. 5

Main Countries of Origin of Asylum Seekers* (July 2009-August 2013)

Country of origin	*Number of asylum seekers*
The Republic of Sudan	2,237
Philippines	1,695
Nigeria	1,677
Ethiopia	1,236
Eritrea	1,107
Ivory Coast	908
Georgia	789
China	507
India	395
Nepal	378

Source: Ministry of Interior, Population and immigration Authority 2013.

* Pursuant to the Procedure of treatment of asylum seekers in Israel, entered into force on January 2, 2011.

195. Out of the total asylum applications submitted in Israel in recent years, 2,841 were submitted by Sudanese and Eritrean who underwent an initial interview (as of March 3, 2014). 1,485 out of them were interviewed in depth. Until March 3, 2014, 453 cases were closed, out of which in two cases Eritreans were recognized as a refugee.

Process of granting refugee and humanitarian status

196. The Procedure of treatment of asylum seekers in Israel establishes the Advisory Committee to the Minister of Interior, regarding the granting of refugee status. The Advisory Committee is comprised of a chairman, who is not a civil servant, and three permanent members, from three different Ministries: Justice, Foreign Affairs and Interior. The Committee convenes once a month and additionally whenever necessary. The Committee discussed, from July 2009 until August 2013: 80 cases in 2013 (until August); 27 cases in 2012; 77 cases in 2011; 39 cases in 2010 and 19 cases in 2009.

197. Between 2010 and 2013, 30 people were granted refugee status by the Minister of Interior, following recommendations of the Advisory Committee.

198. For example, in November 2011, the Advisory Committee recommended to the Minister of Interior to grant a refugee status to an albino toddler from the Ivory Coast and her parents, due to a real risk to her life in her State of origin. It is a known phenomenon in Africa that albinos are sometimes murdered and their bodies are dissected, for trafficking in their organs. The committee's recommendation was approved by the Minister of Interior and the refugee status was granted.

199. Additionally, the Israeli Inter-Ministerial Committee for Granting Humanitarian Status in Israel, which was established according to the Population and Immigration Authority Procedure No. 5.2.0022, may grant humanitarian status to a person on a case by case basis.

Table No. 6

Review by the Israeli Inter-Ministerial Committee for Granting Humanitarian Status, 2009 to 2013

	2009	*2010*	*2011*	*2012*	*2013 (until July)*
Number of times the Committee was convened	8	10	13	12	7
Number of applications before the Committee	196	304	286	212	135
Approved	91	125	147	105	72
Rejected	93	132	112	96	45
Under inquiry	5	18	22	11	17
Removed*	7	29	5	0	1

Source: Ministry of Interior, Population and immigration Authority 2013.

* Removed – the application was removed from the Committee's agenda on the grounds of lack of cause or lack of authority.

Question No. 21

200. Persons who entered Israel illegally through the Sinai desert were, in some cases, held in camps ("Sinai Camps") where they suffered heinous crimes and grave abuse at the hands of their captors, for the purpose of obtaining ransom from their family members living in Israel or abroad ("Sinai Victims"). Some of them, who were brutally injured, and in many cases were raped by the Bedouins, on their way to Israel, can be recognized in Israel as victims of trafficking in persons for the purposes of slavery or prostitution **despite the fact that the offences against them were conducted outside of Israeli borders, by foreign nationals**.

201. For further information on Sinai Victims please see Israel's reply to Question 13 above.

Identification of victims of trafficking in persons in the detention facilities

202. In 2012, the IPS adopted a formal procedure to ensure a uniform and streamlined method of identifying signals raising suspicion of possible trafficked persons and relaying such information to the Police and Legal Aid Administration.

203. According to Government Resolutions No. 2806 of December 1, 2002 and No. 2607 of December 2, 2007, any case where there is a suspicion that a person may be a victim of trafficking in persons ("TIP"), the case must be transferred to the Police for investigation.

204. The IPS procedure provides that if a staff member in a detention facility believes that a detained individual has been the victim of any abuse due to slavery or trafficking, or if a detained individual alleges this to be the case, the staff member must notify and deliver a written report to the social worker in the facility. The social worker then must forward the report to the representative of the Police and Legal Aid Administration. Each of these bodies is responsible for follow-up within their respective fields of activity. Due to the importance of the issue, each Prison Director must ensure that all staff members of the detention facility are informed of the procedure. This procedure was monitored throughout its first year of implementation and results show that it has been effective and no problems or faults were detected.

205. Furthermore, every asylum seeker in a detention facility must be brought before a judge of the Detention Review Tribunal of Infiltrators' Custody. These judges are well informed and are acutely aware of the characteristics of trafficked victims, and would alert the Police of any cases they suspect to be trafficking-related.

206. Once the Police receive a report from the detention facility, an alert from a judge or other indication of a potential victim of TIP, the Police must investigate whether there is sufficient evidence that the person indeed is, or was, a trafficking victim. If the Police determine that such initial evidence exists, the victim will be transferred to a specialized TIP victims' shelter.

207. The Police's threshold for admitting a person to such a shelter is relatively low: if there is any preliminary evidence suggesting that the person might be a victim of trafficking, the person is promptly referred to a shelter. The shelters receive every individual referred to them by the Police.

Treatment of trafficked victims – specialized shelters

208. Victims of trafficking are afforded three fundamental types of rights: shelter, free legal aid and ability to work. These rights (except for the visas granted during court cases) are not contingent upon cooperation with law enforcement. The shelters are supervised and financed by the Ministry of Social Affairs and Social Services and run by an NGO; legal aid is State-funded, by the Legal Aid Administration of the Ministry of Justice and provided to all TIP victims; work visas are provided by the Population and Immigration Authority in the Ministry of Interior. The victims are directed to the shelters, and are also directed to aid organizations that provide additional legal aid, including with regards to the question of their status as refugees.

209. Two Governmental Resolutions on the issue of victims of TIP in prostitution, slavery and forced labor, set up the "Ma'agan" shelter for female victims and the "Atlas" center for male victims, in February 2004 and July 2009 respectively. The shelters provide holistic treatment to victims and are currently equipped to deal with a total of 88 victims: 35 places within the Ma'agan Shelter, 35 places in the Atlas Center and eighteen places within transitional apartments. In 2013, the services available for the treatment of victims of trafficking and slavery were expanded and include 18 additional places, in a new shelter for women called "Tesfa – Hope". Accordingly, the shelters are now equipped to deal with 106 victims of trafficking in persons and slavery.

210. The shelters provide all the necessary services and treatment to the victims, including meeting their physical, medical, emotional and social needs. During their residence in the shelter, a unique rehabilitation program is designed for them.

211. The shelters are staffed with professional employees of diverse backgrounds and specializations. The staff includes a manager, administrative team (including a secretary and maintenance supervisor), social workers, instructors, educators, translators, volunteers, mediators and security crew. These are complemented by two weekly visits by a doctor and visits by a psychiatrist as needed, as well as external professional instructors who lead workshops and classes such as sports, yoga, dance, arts and crafts workshops, and Hebrew and English lessons. The shelters provide an open, tolerant, attentive, sensitive and rehabilitative environment for victims of trafficking.

Legal aid for victims of trafficking

212. The Legal Aid Administration is part of the Ministry of Justice, and provides free legal assistance to victims of trafficking, in a broad range of cases, such as restitution claims, visa applications and assistance to victims in the context of civil proceedings. Among the victims assisted were victims that were held in the Sinai camps in Egypt.

213. During 2013, the Legal Aid Administration received 270 requests from victims, of which 70 requests were from victims of slavery or forced labor in Israel, and 13 requests from victims of trafficking for the purpose of prostitution or related offences in Israel; 187 requests were from African individuals who entered Israel through the Egyptian border unlawfully and were victims of cruel and degrading treatment in the Sinai Camps on their way; of which 20 requests were from unaccompanied African minors (or claiming to be minors).

214. In 2012, 40 victims who were recognized by the Police as persons who were held under slavery conditions were still detained at the "Saharonim" facility – since there was no room in the shelters for victim of trafficking in persons. In January 2013, one of the victims requested legal aid in filing a request to be released to her cousin's house until there is vacancy in the Ma'agan Shelter. The woman claimed that staying in custody is causing her mental torment and distress. Following a meeting with the woman's relative, who agreed to take care of the woman, a request was filed to the Detention Review Tribunal. The Tribunal rejected the request and the Legal Aid Administration appealed this decision to the Be'er-Sheva District Court. On March 6, 2013, the Court accepted the appeal and determined that the humanitarian distress in this case is severe and exceptional and ordered the immediate release of the woman to her cousin's house until there will be a place for her at the Ma'agan Shelter.

215. In 2013, following this verdict and following requests of the Legal Aid Administration, 18 men and 36 women who were recognized by the Police as TIP victims were released from custody to relatives' or friends' homes until admission to the shelters. All were released following a hearing in the Detention Review Tribunal, with the presence of the family member or friend, and after an examination of their hosts.

"Saharonim" detention facility

216. Please see Israel's reply to Question 12 above regarding the legal basis for the detention of people who enter Israel illegally.

217. Every detainee arriving to "Saharonim" detention facility is examined by a medical assistant and a physician. This initial medical treatment includes immunization, tuberculosis tests, as well as a meeting with a social worker. The detainees receive eating utensils, clothing and shoes, bed sheets and towel, toiletries, and hygiene products when needed.

218. In "Saharonim" detention facility there are health and social services including two physicians and 11 medical assistants, a dentist, and social workers. The detainees have unlimited access to the social workers and interpreters, and vice-versa. In relevant cases, a detainee is escorted to medical examinations and psychiatric treatment outside the facility.

219. In the detention facility there are public phones, postal services and TV sets with 11 different channels. Each wing includes showers, self-service laundry facilities etc.

Articles 5 to 9

Question No. 22

220. The Israeli State Attorney's Office has not extradited any person either from Israel nor has it requested the extradition of a person to Israel according to the CAT, nor handled any cases in which an allegation of torture or inhuman treatment was substantiated.

Question No. 23

221. Please see Israel's reply to Question 22 above.

Question No. 24

222. Due to the unique current geo-political situation in the region, the Police is not cooperating with neighboring states regarding legal assistance.

Article 10

Question No. 25

Police

223. The Police Education and Information Section operates educational programs aimed towards ensuring various values are incorporated into police officers' work, including tolerance within a multicultural society, elimination of prejudice, and raising awareness of the relevant human rights conventions.

224. The educational programs are run both on special educational workshop days and generally within the overall Police training framework that includes seminars and courses. In the last few years, special emphasis is given to the training of Police commanders in all levels, since they are in the best position to influence their subordinates.

225. The Police School for Investigation and Intelligence incorporates into the training of investigators and investigation officers the main provisions of the relevant human rights conventions and Law of Armed Conflict regarding procedures and investigation ethics, including "right and wrong" behaviors.

Israeli Defense Force (IDF)

226. The School for Military Law holds a variety of training activities for IDF forces regarding human rights and the Law of Armed Conflict. These activities include lectures, use of learning aids such as computer programs and comprehensive written materials.

227. Every year, hundreds of lectures are given to IDF soldiers both in mandatory service and reserve. Lectures are attended by combat forces, officers' course cadets, Military Police investigators, security analyzers and medical care personnel in detention facilities, as well as to commanders throughout the IDF.

228. These activities specifically place an emphasis on issues such as arrest and detention practices, detainee's rights, the Law of Armed Conflict and rules of conduct during an armed conflict.

229. The following are some of the tools that were developed as a part of the training activities for IDF forces stationed along crossing points:

(a) Creation of a designated security crossings unit of the Military Police, headed by an officer with the rank of Colonel. The unit operates in security crossings positioned along the security fence which was created to ensure national security by preventing the passage of terrorist factions from the West Bank into Israel. The unit was established with the specific intention, in addition to maintain security, to simultaneously uphold the quality of life of both the Israeli and the Palestinian populations;

(b) The soldiers are taught Arabic and meet with members of humanitarian organizations in order to better understand the humanitarian needs of the Palestinian population. Special emphasis is given to the issue of human dignity and the soldiers are taught a variety of relevant basic information, such as the basics of the Islamic religion and traditions, the Palestinian culture, with specific attention to cultural sensitivities and care required towards Palestinian women. In order to ensure protection of their dignity, the examination of women asking to cross the border is performed solely by Military Police

women who are stationed at the crossings. In addition, the soldiers receive regular lectures from a representative of the office of the Coordinator of the Government Activities in the Territories and an officer from the Military Advocate General's Office.

Israeli Prisons Service (IPS)

230. The IPS officers and wardens undergo regular training and instructions through courses held in the School for IPS officers and wardens, as well is in their respective units. Training regarding the relevant human rights conventions is an integral part of the general IPS training at the unit level, as well as in specific courses given to officers and wardens. This training includes topics such as prevention of the use of force, ethics in the warden's work, and values of the rights and liberties of the prisoner. These issues are also routinely addressed during training and guidance of other staff member of the prisons. Additionally, ethics and values workshops were also held for the senior staff in the prisons.

231. In the recent years there have been workshops conducted for all staff members at the "Saharonim" and the "Givon" detention facilities regarding the identification of trafficked victims, as was detailed in Israel's reply to Question 21 above. These workshops are conducted by the National Anti-Trafficking Unit in the Ministry of Justice several times a year.

Israel Security Agency (ISA)

232. In 2013, the Legal Department of the ISA and dozens of ISA personnel underwent specific training on international law, including human rights law, the core human rights conventions and the work of the Human Rights Treaty Bodies.

233. Moreover, ISA interrogators are taught in detail about the relevant human rights conventions, including their implications in the unique Israeli context. This is done both during preliminary and continued ISA training. These courses and seminars aim to instill the importance of principles of human dignity and fundamental human rights, together with the upholding of the rule of law and practices stipulated by the courts.

Question No. 26

234. Please see Israel's reply to Question 25 above.

Question No. 27

235. It should be noted that the Turkel Commission, the Public Commission to Examine the Maritime Incident of 31 May 2010, recommended in its Second Report (February 2013)(recommendation No. 16) that the Head of the Investigations and Intelligence Department at the Police should ensure that in the framework of training the investigators, proper emphasis is placed on the relevant rules of international law, especially CAT, the UN Standard Minimum Rules for the Treatment of Prisoners, UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and the Istanbul Protocol. This recommendation applies to all of the bodies that deal with investigations into incidents to which international law applies.

236. This recommendation, as all other recommendations in the Report, shall be reviewed by the Examination and Implementation Team of the Second Turkel Report's Recommendations. Specifically, the Istanbul Protocol is being examined in order to fully understand its implications on the IPS and other authorities. As part of this learning process, on February 25, 2014, the Inspector for Complaints against ISA Interrogators ("Inspector") and the Inspector's supervisor attended a seminar conducted by the Israeli Medical Association and the Public Committee against Torture in Israel on the Istanbul Protocol and its implications.

237. Additionally, please see Israel's reply to Question 25 above.

Question No. 28

238. The Population and Immigration Authority personnel who are trained to be part of the Refugee Status Determination Unit (RSD) undergo a four week course on topics specifically related to refugees and asylum seekers. This includes the Refugee Convention, relevant Human Rights conventions (including to the CAT) and Israeli laws, and trafficking in persons. The course was co-developed and first conducted in 2009 by the Ministry of Interior, UNHCR, the Hebrew Immigrant Aid Society (HIAS) and the United States Department of Homeland Security.

239. The judges of the Detention Review Tribunals of Infiltrators' Custody undergo specialized training with respect to trafficking in persons and the Sinai Camps. The most intensive training to date was a seminar regarding trafficking in persons that was conducted in 2011, attended by the all the judges of the Tribunal. Two additional seminars were conducted in 2012 regarding trafficking in persons, focusing on issues such as the cultural aspects of victims of trafficking, the identification of victims of trafficking in persons and modern slavery. Those seminars have helped in raising these judges' awareness to the victims of the Sinai Camps, as well as to victims of trafficking in persons.

240. For further information regarding human rights trainings please see Israel's reply to Question 25 above.

Article 11

Question No. 29

Inspector for complaints against Israel Security Agency (ISA) interrogators

241. According to Section 49(9)(1) of the *Police Ordinance*, opening an investigation against an ISA employee is a discretionary decision of the Attorney General, the State Attorney or one of her/his deputies. If so decided, such an investigation will be conducted by the DIPO. However, in order to decide whether or not to conduct such an investigation, a preliminary examination is to be undertaken by the Inspector for Complaints against ISA Interrogators ("Inspector"). Following such an examination, the Inspector's findings are transferred to her/his Supervisor, a senior advocate in the State Attorney's Office, who decides if there is sufficient evidence to recommend opening an investigation.

242. Following comprehensive intergovernmental deliberations as well as several NGOs' petitions to the High Court of Justice, the Attorney General announced in November 2010 that the Inspector, which had previously been a role within the ISA, would become part of the Ministry of Justice and would be subordinate to the Director General of this Ministry.

243. This reform, which establishes an external inspector to examine complaints concerning ISA Interrogations, was supported by the Head of the ISA, the State Attorney and the Director General of the Ministry of Justice.

244. Israel is pleased to announce that the procedure of transferring the Inspector to the Ministry of Justice is complete. In June 2013, Colonel (Ret.) Jana Modzgvrishvily, the former Chief Military Prosecutor, was chosen to serve as the Inspector. Recently another position in the unit was filled and a third position is scheduled to be filled temporarily. The unit in the ISA was disbanded.

Case law

245. On October 21, 2012 the High Court of Justice issued a partial judgment on a petition submitted by the Public Committee against Torture and the Swetti family requesting that the Court instruct the Attorney General to order the Department of Investigation of Police Officers ("DIPO") to launch a criminal investigation against ISA investigators who were involved in Mahmoud Swetti's interrogation. It was alleged that during Swetti's interrogation, ISA officers created a false display and had Mr. Swetti believe that his father and wife had been arrested and detained.

246. The petitioners argued that no legal remedy other than filing a petition to the High Court of Justice was available by law, as criminal procedure allows the request of a review by the Attorney General only following a decision not to file an indictment, and does not include an equivalent remedy regarding a decision not to open a criminal investigation. The Court ruled that as was decided in H.C.J. 1265/11 *The Public Committee against Torture et. al. v. The Attorney General* (6.8.12) the petitioners can request the Attorney General to review the decision not to open a criminal investigation against the ISA investigators. The Court recommended that the period of appeal over a decision not to open an investigation in these specific cases be extended in order to allow the petitioners to request the Attorney General to review the decision (H.C.J. 1266/11 *Mahmoud Swetti et. al. v. The Attorney General* (21.10.12)).

247. On 12 November 2012 a final decision in the petition was rendered by the Court, allowing the submission of an appeal until 12 December 2012. The appeal was submitted and denied and another petition was submitted on the matter. The petition is still pending (3990/14 *Mahmoud Swetti et. al. v. The Attorney General* (pending)).

248. On August 6, 2012, the High Court of Justice issued a partial judgment regarding complaints concerning the Inspector. The petition included complaints regarding the Inspector's authority to examine complaints against ISA Interrogators, the duty of the Police or the Attorney General (or another authorized body such as the DIPO) to investigate any complaint regarding an offence of an ISA employee, and the question of the independence of the Inspector, who was at that time, an ISA employee.

249. The Court noted that a preliminary examination, prior to a decision regarding opening a criminal investigation, may be part of the decision-making process in the State Attorney's Office and held that such a preliminary examination is an acceptable course of action.

250. The Court also noted that in regard to the authority to order a criminal investigation, as determined by the Court in previous rulings, the authorities are not obligated to automatically open an investigation following a complaint; but rather such a duty to open an investigation is conditioned on sufficient evidence which justifies it.

251. The Court noted that in light of the principle authority to conduct a preliminary examination, and the need for sufficient evidentiary infrastructure to justify the opening of a criminal investigation, the mechanism of the Inspector and the Inspector's Supervisor (a senior lawyer in the Israeli State Attorney's Office of the Ministry of Justice, appointed by the Attorney General) strikes an appropriate balance between all the relative interests, in parallel with the recently completed process of the Inspector becoming part of the Ministry of Justice.

252. The Court also noted that the conducting of such a preliminary examination by someone who will not be an ISA employee, but rather an employee of the Ministry of Justice, will also serve the public interests in safeguarding the ISA interrogation methods by ensuring that efficient interrogation tools are used within the boundaries of the law, which will assist in protecting confidential information.

253. The Court recommended a minor amendment to the current Section 49 (9)(1) of the *Police Ordinance*, that would give the authority to the Inspector's supervisor to open investigations. This amendment is required, according to the Court, so that the same entity would be able to decide upon the opening and closing of investigations. As for the possibility to request a review on such decision, the Court held that the request should be made to the entity with supervisory powers on the authority authorized to open an investigation.

254. The Court found that the availability of an appeal process, both by requesting the Attorney General to review the Inspector's decision, followed by the possibility to petition for judicial review by the High Court Of Justice, provide adequate safeguards for complainants.

255. The Court did not examine the cases of the specific plaintiffs but rather recommended that the period of appeal over a decision not to open an investigation in these specific cases be extended in order to allow them to request the Attorney General to review the decisions (1265/11 *The Public Committee against Torture et. al. v. The Attorney General* (6.8.12)). Other issues that were still pending in the petition were deleted with the mutual consent of the parties (12.11.12).

256. Following the recommendation of the High Court of Justice regarding a minor amendment to Section 49(9)(1) of the *Police Ordinance*, the issue is under consideration in the Ministry of Justice. Furthermore, as a consequence of the High Court of Justice recommendation, currently all cases in which the Inspector's Supervisor decided not to pursue a criminal investigation are concluded in concurrence with the Deputy State Attorney (Criminal Affairs).

257. In addition, there are several pending petitions before the High Court of Justice on related matters, including: H.C.J 2268/13 and H.C.J. 9132/12 *Anonymous v. The State of Israel* requesting to establish a timeframe for preliminary investigations conducted by the Inspector; H.C.J. 8899/13 *Anonymous v. The Attorney General* regarding the interrogations of women; H.C.J. 5722/12 *A.A.G. et. al. v. The Attorney General et. al.* requesting that the Court instruct the Attorney General and the State Attorney to order a criminal investigation into allegations of abuse and torture by a number of ISA interrogators involved in the interrogation of a suspect.

Question No. 30

Alleged cases of torture, ill-treatment and disproportionate use of force by law enforcement officials

258. Every complaint or report of torture, ill-treatment or disproportionate use of force is investigated promptly by the relevant authorities.

259. A number of sections of the *Penal Law* provide criminal sanctions against acts of torture, as was described in Israel's reply to Question 1 above. Specifically, the *Basic Law: Human Dignity and Liberty* provides that there shall be no violation of the life, body or dignity of any person.

260. Another relevant statutory provision is Section 12 of the *Evidence Ordinance [New Version]* 5731-1971 ("*Evidence Ordinance*") which invalidates any confession made by an accused person which was not freely and voluntarily provided.

261. Section 34M of the *Penal Law* provides the defense of a person's conducting of an act if so obligated or authorized to do so according to the Law (Section 34M(1)), and if the person is acting according to an order of an authorized authority to which she/he was obligated to obey, except if the order was clearly illegal (Section 34M(2)). Where an order

is manifestly illegal, as would be the case with an order to commit acts of torture, the claim that one was acting under such order does not constitute a valid defense for the committing such acts.

262. In addition, the IPS, the ISA, the Police and the Ministry of Public Security are routinely subjected to inspection by the State Comptroller.

Israel Police officers

263. The Police and the Department for Investigation of Police Officers (DIPO) in the Ministry of Justice views instances of police officers' ill-treatment and disproportionate use of force against detainees with the utmost severity.

264. Serious efforts are being undertaken to eliminate any form of such abuse. Cases of alleged violence are thoroughly investigated, using all means to exhaust an investigation and bring to justice those found to be unnecessarily violent or acting in an unreasonable manner.

265. The Police Disciplinary Tribunal is a semi-judicial administrative body which specifically deals with cases concerning unlawful use of force by police officers. It is comprised of two police officers and a public representative and has the purpose of upholding the public's trust in Police treatment of complaints regarding the unlawful use of force. The tribunal may impose penalties ranging between fines, warnings, reprimands, confinement, demotion, or incarceration.

266. In certain cases, when the use of force is relatively trivial, the Department submits complaint fact sheets, reviewed by a single Tribunal judge through an expeditious process, without legal counsel. The Tribunal considers the type of injury, the results of the use of force, the location of the offence, the officer's disciplinary record and her/his personal circumstances.

267. The DIPO is responsible for most criminal investigations against police officers. Disciplinary proceedings are initiated by a complaint submitted to the Disciplinary Department of the Personnel Division at the Police Central Headquarters, or to any of its branches. Administrative sanctions may be imposed at any time during the proceedings, or after they are completed.

Israeli Prisons Service (IPS) personnel

268. Every prisoner or detainee under the care of the IPS has access to the following complaint mechanisms concerning grievances regarding the staff and wardens', including claims of wrongful use of force:

(a) Filing a complaint to the Director of the prison;

(b) Petitioning the relevant District Court in a prisoner's petition, in accordance with Section 62A of the *Prisons Ordinance*, and the *Procedures (Prisoners Petitions) Regulations* 5740-1980;

(c) Filing a complaint to the Unit for Investigation of Wardens ("UIW"), through the IPS or directly to the Unit. This Unit is part of the Police, and its members are police officers. The findings of the UIW are subject to the State Attorney's Office scrutiny, who decides whether to institute disciplinary measures or criminal proceedings;

(d) Filing a complaint to the Prisoners Complaint Ombudsman, which is part of the Ministry of Public Security's Internal Comptroller Unit. Following the completion of such an inquiry of a complaint, and based on its findings, the complaint will either be forwarded to the UIW or the Disciplinary Branch of the IPS;

(e) Requesting a personal visit of an official visitor appointed by the Minister of Public Security, according to Section 72B of the *Prisons Ordinance*.

269. In addition, Section 71 of the *Prisons Ordinance* establishes rules for Official Visitors in prisons. These Visitors are appointed by the Minister of Public Security and are comprised of lawyers from the Ministry of Justice as well as few representatives of the Israel Bar Association who are appointed on a yearly basis, either for a specific prison, or nationwide. Section 72 of the *Prisons Ordinance* grants Official Visitor authority to Supreme Court judges, the Attorney General, the Chairpersons of the Internal Affairs and Environment Committee and the Constitution, Law and Justice Committee of the Knesset in prisons throughout Israel; to District and Magistrates Courts judges, in prisons in their jurisdiction. Official Visitors are allowed to enter the prisons at any given time (unless special temporary circumstances apply), to inspect the state of affairs, prisoners' care, prison management, etc. During these visits, the prisoners may approach the visitors and present their complaints, including grievances pertaining to use of force. As mentioned above, prisoners may also make a complaint to the Director of the prison and during an Official Visitor's visit, request for an interview with such a Visitor. Attorney General's Guideline (No. 4.1201, (1.5.75), updated – 1.9.2002) broadened the Official Visitors' scope of the above to also include detention cells in police stations and courts. ICRC personnel also conduct visits to prison facilities.

Israel Security Agency (ISA) interrogators

270. The ISA and its employees must act within the limits of the law and are subject to both internal and external supervision and review. This includes review by the Inspector for Complaints, by the State Comptroller, the State Attorney's Office, the Attorney General, the Knesset and every instance of the courts, including the High Court of Justice.

271. Such mechanisms for supervision of the ISA are provided for in the *Israel Security Agency Law* 5762-2002, which aim to ensure that the ISA acts according to its mandate and within the scope of its legislated functions, and that its members do not engage in ill treatment or disproportionate use of force.

Alleged cases of torture, ill-treatment and disproportionate use of force made before a prosecutor or judge

272. If the complaint of abuse is brought before a judge, the practice requires that she/he shall document the complaint in the court records and refer it for an investigation by the Police (in cases where the suspicion of abuse is by a civilian), or to the DIPO (in cases where the suspect of abuse is a police officer).

273. If the complaint of abuse is brought before a prosecutor, according to internal directives she/he shall document the complaint in an official memo and refer it to the Police (in cases where the suspicion of abuse is by a civilian), or to the DIPO (in cases where the suspect of abuse is a police officer). Furthermore, according to Israeli Law and courts rulings when the complaint is made by a suspect or a defendant, claiming to have been subjected to violence by the ISA, IPS or the Police, where the suspect or the defendant was investigated by the DIPO, the prosecutor should receive and forward any investigation material obtained from the DIPO to the defense lawyer, as part of her/his handling of the criminal case.

Medical treatment and reports to the authorities in cases of violence

274. During general medical training, physicians, nurses and medical staff are all taught to detect, and how to provide special treatment to, victims of violence, including victims of torture, abuse and rape. Awareness of special sensitivity required towards women and

children is also taught. Physicians and medical staff are guided to pay attention to signs of violence, and to ask particular questions according to a questioning form. There is an obligation on physicians to note any suspicion of abuse and to immediately report to the Police each case in which such a suspicion arises. If there are distinct physical injuries indicating violence, the physician must ask the patient specific questions surrounding the circumstances in which they occurred, and must make a medical record of her/his suspicion of violence as well as the examinee's answers.

275. Victims of rape are usually transferred to rape centers. The staff of these centers include physicians, nurses and social workers who are specifically trained in this area; with the medical staff having participated in a specialized, three month course held in the United States. These centers are adapted to providing immediate medical services to rape victims and are equipped with technology for collecting and analyzing relevant evidence for possible indictment.

276. In instances where a victim is identified several weeks or months after a rape has occurred, they are not generally transferred to these rape centers but rather are referred for general medical treatment by a doctor (given the inability to collect relevant physical evidence weeks after a rape event). Where the doctor or member of the medical staff is satisfied that there is possible mental injury due to the event, even in instances where the victim does not have physical injuries, the victim is referred to a psychiatrist.

Question No. 31

277. Israel does not hold persons in secret facilities. Allegations of torture and ill-treatment in facility 1391 ("facility") were investigated by the competent authorities, and no grounds for criminal proceedings against any of the facility's staff members were found. This issue was later examined by the High Court of Justice, which upheld the findings.

278. To date, no detainee was held in the facility since 2006.

279. On January 20, 2011 the High Court of Justice dismissed a petition filed by Member of Knesset (MK) Zehava Gal-On and the Center of the Defense of the Individual, in which the petitioners requested the Court to reveal the location of facility 1391 and to allow members of the Knesset to visit the detention facility. The Court determined, *inter alia*, that the balance between the competing interests in the present case, namely parliamentary review of the facility to ensure protection of basic rights of detained individuals, versus national security interests, justified restricting the visit of Knesset members to the facility. As the State explained to the Court, specific permission had already been granted to MKs who were members of the Secret Services Subcommittee of the Foreign Affairs and Defense Committee of the Knesset. The Court ruled that this permission guaranteed that the public interest in the existence of parliamentary review of the facility was being upheld, whilst simultaneously the public interest in keeping the location of the facility unidentified for security reasons.

280. The Court further noted that the existence of the facility was publicly known and was not denied by the State. According to the procedures, the detention of a detainee in the facility was subject to authorization by senior staff and the duration of their detention at the facility was short. The Court noted that the relevant bodies would be notified on the arrest of a person and that people would not "disappear" when they were brought to the facility. In addition, an address for inquiries for the submissions of requests was provided. The Court ruled that the procedures of the facility were in accordance with Israeli and international law.

281. The Court concluded that although the arrangement formulated by the State harmed the rights of the detainees and their families to receive information of the exact location of the facility, this harm was proportionate to the threat posed by exposing the location, due to

security considerations. The Court held the harm was proportionate due to three restrictions provided for in the State's arrangement for the facility. First, people who were Israeli citizens or West Bank residents were not to be held in the facility. Second, only senior staff would be allowed to authorize the detention of a person at the facility. Third, the maximum length of detention at the facility was very short, as the main goal of the facility was use as interrogation facility in special security circumstances (H.C.J. 8102/03 *MK Zehava Galon v. The Minister of Defense*, and H.C.J. 9733/03 *The Center for the Defense of the Individual v. The State of Israel* (20. 1.11)).

Question No. 32

282. The following table indicates the number of Security Prisoners from the West Bank in Israeli prisons:

Table No. 7
Total Number of Prisoners – Residents of the West Bank – Security Prisoners 2013

	Sentenced	*Detained*	***Total***
Men	2,689	3,490	**6,209**
Women	8	11	**19**
Total	**3,498**	**2,700**	**6,228**

Ministry of Public Security, August 2014.

* Another 30 prisoners are currently not considered sentenced nor detained and possibly are being shifted from one category to another.

283. Please see Israel's reply to Question 11 above regarding family visits of families of Palestinian prisoners from Gaza Strip and from the West Bank.

Question No. 33

Detention and imprisonment of minors in Israeli legislation

284. Arrest and detention of minors is regulated by the Youth Law (Trial, Punishment and Modes of Treatment) 5731-1971 ("Youth Law – Trial"). Amendment No. 14 to the Law, which entered into force in July 2009, greatly improved the treatment of minors in detention and subsequent criminal proceedings.

285. Section 10A of the Youth Law – Trial, titled "Detention of Youths as a Last Resort and Consideration for Arrest" expressly stipulates that a minor shall not be subjected to arrest if there is a way to achieve the goal of the detention through an alternative measure which impairs her/his liberty to a lesser extent; More so, it stipulates that the detention must be for the shortest time possible. When deciding to detain a minor, considerations including her/his age as well as the potential effects of detention on her/his physical and mental wellbeing, and her/his development, will all be taken into account.

286. Furthermore, Section 10C of the Youth Law – Trial stipulates that a minor under 14 will be arraigned before a judge after 12 hours.

287. Section 25 of the Youth Law – Trial stipulates that a minor may be kept in a closed residence in lieu of a detention. Additionally, in cases where there are mandatory maximum punishments stipulated by law there is no obligation to sentence minors to life imprisonment, mandatory punishments or minimum punishments, notwithstanding other provision of the law. The Section further stipulates that when sentencing a minor, the

Juvenile Court shall consider her/his age at the time of committing the offence. A minor who is under fourteen at the time of sentencing shall not be subjected to imprisonment.

288. Section 26 of the Youth Law – Trial provides alternative measures which the Juvenile Court may order in lieu of imprisonment, including: placing the minor under probation; receiving a commitment from the minor or her/his parent regarding her/his future conduct; placing the minor in a closed residence facility; charging the minor or her/his parent with a fine, trial expenses or compensation to the injured party.

Representation of minors charged with criminal offences

289. Pursuant to section 18(a)(7) of the *Public Defender Law*, the *Public Defender Order*, and the *Public Defender Regulations*, all minors who are detained for investigation are eligible to representation by a public defender.

290. The Public Defender Office represents a significant portion of minors who are ultimately charged with criminal offences. In 2013, 14,464 proceedings were conducted in Juvenile Courts which constituted approximately 13% of the proceedings conducted by the Public Defender Office that year. In 2012, 15,484 proceedings were conducted in Juvenile Courts which constituted approximately 14% of the proceedings conducted by the Public Defender Office that year.

291. Representation of minors requires expertise in the specialized law that relates to minors; a specialization that the Public Defender Office has acquired. Lawyer-client relationships in the field also require flexibility and creativity, focusing on representation of the minor to seek a holistic approach to her/his treatment. To this end, the Public Defender Office dedicates significant efforts to finding adequate private therapeutic frameworks to present to the Juvenile Courts as alternatives to detention.

Solitary confinement of minors

292. Regulation 13 of the Youth Law (Trial, Punishment and Modes of Treatment)(Conditions of Holding a Minor in Detention or Imprisonment) 5773-2012 ("Youth Law – Trial Regulations") determines that a confinement cell where a minor is being held shall be located within the wing where other prisoners or detainees are being held, so that the minor may maintain eye contact with the IPS wing's staff. The regulation further provides that prison healthcare staff shall monitor the condition of such a minor, as the situation may require. Regulation 11 of the Youth Law – Trial Regulations requires that the minor's parents be informed if a punishment of solitary confinement was imposed on their child.

Education of children in detention

293. A wide range of education services are provided to children in detention, including classes operated by the Ministry of Education that are available in the different prisons. For example, in the Juvenile Ofek Prison there are 10 classes for minors who are Israeli residents that create a continuity of the minor's education in the community and allow the detained minor to take the matriculation certificate.

294. All the teachers in the prison school have the proper qualifications and certification from the Ministry of Education. The classes are overseen by the Ministry of Education and the Unit for the Promotion of Youth, regardless of the nature of crimes the child has committed.

295. Furthermore, please see Israel's reply to Question 7 above.

Articles 12 and 13

Question No. 34

296. All complaints submitted to the Inspector for Complaints against ISA Interrogators ("Inspector") are examined independently, impartially and properly. So far, these complaints have not resulted in any prosecutions. However, some of them prompted changes in procedures and methods of interrogation.

297. The new Inspector has been conducting an examination of all of the means available to her in her new position. In addition, with the aim of expanding the transparency of the examination process, the Inspector conducted several meeting with representatives of the ICRC and of several non-governmental organizations.

298. In 2014, for the first time, testimonies were collected from detainees who were interrogated and were released. In addition, also for the first time, representatives of an NGO were allowed to be present in a meeting between the Inspector and a complainant – also with the aim of increasing the transparency of this process.

299. Following complaints of lengthy examinations of complaints, the Inspector, geared towards closing examinations that are overdue and with the purpose of curbing current examinations, is working to close all open complaint files regarding complaints that were served before 2013.

300. It should be mentioned that between the years 2009-2012 the vast majority of complaints submitted to the Inspector were forwarded to the Inspector by the ISA interrogators themselves, after they received complaints from interrogatees.

301. For further information regarding the Inspector please see Israel's reply to Question 29 above.

Question No. 35

Additional information of cases against police officers which concluded with a conviction

302. In 2009, 68 cases against police officers concluded with convictions. The penalties imposed in these cases included:

(a) In six cases, the offenders were sentenced to imprisonment, suspended imprisonment and compensation to the complainant or a fine;

(b) In 15 cases, the offenders were sentenced to imprisonment to be served as community service, together with suspended imprisonment and compensation to the complainant or a fine;

(c) In 20 cases, the offenders were sentenced to suspended imprisonment and compensation to the complainant or a fine;

(d) In 26 cases, the offenders were sentenced to community service and/or compensation to the complainant.

303. Since 2009, hundreds of additional cases regarding alleged use of force by police officers were investigated by the DIPO. However, the number of such cases has declined over the years: in 2010 – 679 cases; in 2011 – 526 cases; in 2012 – 344 cases (and an additional 74 cases in which an initial investigation was conducted); in 2013 – 197 cases (and an additional 91 cases in which an initial investigation was conducted). These cases alleging use of force include a variety of claims and complaints, with varied levels of violence and severity and only few of them amounting to abuse. It should be mentioned that

the DIPO data system is not divided into claims or findings of abuse and therefore the cases cannot be presented according to this information.

304. A relevant case of alleged Police abuse was decided by the Jerusalem Magistrate and then District Court. On September 13, 2009, the Jerusalem District Court accepted an appeal filed by the two appellants against four policemen requesting to increase the compensation granted to them by the Jerusalem Magistrate Court. The Magistrate Court had found that the four policemen had attacked the appellants while they themselves were not subject to any danger. According to the Jerusalem Magistrates Court's ruling, after the appellants showed their valid entry permit to Israel to the policemen, they asked to search them and took them to a nearby forest, where the policemen attacked and hit them on their face, shoulders and back. The Court held, upon consideration of the physical injuries, in addition to the sense of helplessness, humiliation, insult and mental suffering, sustained, and the violation of the petitioners' right to dignity – the compensation should be raised. It awarded each of the appellants compensation of 40,000 NIS (10,498 USD) (instead of 10,000 NIS (2,624 USD)) and 15,000 NIS (3,937 USD) worth of expenses (C.A. 3128/09 (Jerusalem District Court) *Anonymous et. al. v. The Israel Police et. al.* (13.09.09)).

Israeli Prisons Service (IPS) officials accused of abuse

305. In recent years, the following criminal proceedings were filed against IPS wardens for allegations of use of force: against three wardens in 2013, against one warden in 2012, against four wardens in 2011 (two of which were involved in the same case), against two wardens in 2010 and against one warden in 2009.

306. The number of complaints against wardens using force against prisoners has been declining over the past four years, relative to earlier years. In 2014 (until the end of June) 25 cases were investigated by the Unit for the Investigation of Wardens (UIW) which is a part of the Police, resulting in the filing of four disciplinary statements of claim. In 2013, 57 cases were investigated by the UIW, resulting in the filing of six disciplinary statements of claim. In 2012 (until the End of October) 98 complaints were handled by the Unit for the Investigation of Prison Wardens which is a part of the Police, resulting in the filing of two disciplinary statements of claim. The most common disciplinary measures imposed upon wardens were severe reprimands, fines, confinement and suspended imprisonment. In 2011, 132 complaints were handled, resulting in three disciplinary statements of claim and one disciplinary procedure before the IPS Disciplinary Tribunal. In 2010 the unit handled 109 complaints which resulted in nine indictments and four disciplinary procedures before the IPS Disciplinary Tribunal. Finally, during 2009, the UIW handled 185 complaints which resulted in three disciplinary charges in the IPS Disciplinary Tribunal and two disciplinary procedures before the IPS Disciplinary Tribunal. The most common disciplinary measures imposed by the Tribunal were severe reprimands, fines, confinement to their place of employment and suspended imprisonment.

307. For example, on June 3, 2012 the IPS Disciplinary Tribunal sentenced a warden who was convicted of unlawful use of force, to five days of detention and seven days suspended imprisonment. On June 11, 2012 the IPS Disciplinary Tribunal convicted a warden of unlawful use of force and sentenced him to a fine and five days suspended imprisonment. On July 9, 2012 the IPS Disciplinary Tribunal sentenced a warden who was convicted in unlawful use of force to seven days suspended imprisonment and a fine.

IDF soldiers accused of abuse

308. In November 2012, the Military District Court convicted two IDF soldiers of assault under aggravated circumstances, and sentenced one of them to six and a half months imprisonment and the other to five and a half months imprisonment. The soldiers were also sentenced to suspended imprisonment and had their ranks demoted. This case involved

circumstance in which a military unit was responsible for capturing and holding a Palestinian who had infiltrated Israel from the Gaza Strip. However, two of the soldiers, instead of holding the Palestinian as required according to the IDF regulations, beat him, while filming the incident with their cellular phone. The Military Court ruled that these soldiers exploited the helplessness of the Palestinian who was handcuffed and blind folded and harmed the integrity of his body and his human dignity. The Court approved a plea bargain reached by the parties while taking into consideration the defendants' personal circumstances. Additional two soldiers who were involved in this incident were also charged with assault under aggravated circumstances.

309. In another case, an IDF soldier was charged with assault and improper conduct by a soldier. According to the indictment dated October 2012, after legally detaining a Palestinian at a checkpoint and handcuffing him, the soldier proceeded to beat and kick the detainee unlawfully.

Question No. 36

310. For further information regarding the Inspector for Complaints against the ISA Interrogators please see Israel's reply to Question 29 above.

Question No. 37

311. Please see Israel's reply to Question 7 above.

Question No. 38

312. Israel is unable to provide additional data regarding this matter since this information is classified for national security reasons. Note that all proceedings concerning this matter are under close judicial scrutiny.

Question No. 39

Submission of complaints regarding alleged ill-treatment at IPS facilities

313. The IPS allows prisoners to file their complaints directly to the Unit for Investigation of Wardens (UIW) within the Police, either by phone, in writing via a closed envelope which can be placed in a designated mailbox inside the prison, or through the Prison Director. Please see Israel's reply to question 35 above for further information on this matter.

314. During 2011 the Unit for Investigation of Wardens (UIW) within the Police was connected to the IPS computer systems to enable the Unit's access to videos and photographs of the public areas of various prisons. The measure provides the UIW access to the best material available to fulfill its role in investigating any misconduct by prison wardens.

315. Additionally, over the past few years, digital cameras have been placed in all IPS medical clinics, and according to prison orders, any prisoner who complains about physical injury resulting from an alleged use of force (by another prisoner of by a warden) is photographed by the medic, and the documentation is maintained in the IPS computer system.

Submission of complaints regarding alleged ill-treatment by the police

316. The Police and the DIPO in the Ministry of Justice views instances of police officers' ill-treatment and disproportionate use of force against detainees with the utmost

severity and if found guilty of such conduct, are dealt with accordingly, as described in Israel's reply to Question 35 above.

317. State Attorney's Guideline number 2.18 "Prosecution Policy in Cases in Which a Suspect of an Offence against an Officer Complains of Use of Force by an Officer" stipulates several principles which improve the complaint mechanism process and the review of complaints regarding police officers' violence. First, a complaint regarding use of force by police officer will be prioritized, in terms of handling, over an opposite investigation, in which a person is claimed to have used force against a police officer (i.e. forceful resistance of arrest, escaping legal custody, etc.). An indictment will not be filed against a person who used force against a police officer, until permission is obtained from the DIPO. Second, the prosecutor handling the case of a complaint by an individual against a police officer must verify that the Police have transferred all the relevant materials to the DIPO to investigate the complaint.

Submission of complaints regarding alleged ill-treatment by ISA interrogators

318. For further information regarding the Inspector for Complaints against the ISA Interrogators please see Israel's reply to Question 29 above.

Obtaining medical records in cases of abuse

319. A complainant, who claims to be a victim of ill-treatment or torture and wishes to obtain medical records, can do so in two ways. One is receiving medical documentation from the medical facility in which she/he was treated. If the complainant was detained, there is an obligation that the detainee be examined upon entering the facility and the detainee is also subsequently entitled to receive medical care at any time upon request. The documentation of these examinations is included as investigation material, if any suspicion of abuse or torture is being investigated. The second method is conducting a "Clinical Forensic Examination" within the Forensic Institute (or an autopsy, if the complainant is deceased). The examination by the Forensic Institute depends on the suitability of the case for such an examination: for legal conclusions cannot be reached for each and every physical injury. The investigation authorities, including the DIPO, maintain a direct connection with the Forensic Institute, including consultation regarding any conclusions which may be adduced from a pathological examination.

Question No. 40

Israeli Prisons Service (IPS)

320. According to Israeli Prisons Service Directives, in any case where a prisoner alleges she/he had been harmed through use of force, she/he is almost immediately questioned by the Prison Director or the Deputy Director, and any claim of unlawful use of force is immediately and directly reported to the Unit for Investigation of Wardens (UIW) within the Police, and to the relevant staff.

321. Furthermore, when the UIW opens an investigation against a warden pursuant to a complaint by a prisoner, simultaneous measures are taken according to instructions, to guarantee separation between the complaining prisoner and the warden.

Israel Police

322. Detainees and prisoners in Israel are under the responsibility of the IPS. Therefore, if they exercise their rights and lodge a complaint against police officers while in a detention facility or prison, they are not under the authority of the subjects of complaint, consequently there is no fear of retaliation.

323. Moreover, Section 249 of the *Penal Law* stipulates that harassing any witness in an investigation or a trial constitutes a criminal offence. Consequently, if such crimes are committed, a complaint can be filed, and will be addressed accordingly.

Question No. 41

Independence of the judiciary in Israel

324. According to Basic *Law: The Judiciary*, the courts and tribunals throughout Israel must adhere to strict principles of independence from the two other branches of government. The *Basic Law: The Judiciary* further provides that all judges must be independent from political and financial persuasions, and are subject only to the law: "[a] person in whom judicial power is vested shall, in judicial matters, be subject to no authority but that of the law." This applies to any person vested with judicial power (i.e. in administrative tribunals).

325. Other principles the judiciary in Israel must abide by are neutrality, fairness, impartiality, and objectivity. There is no trial by jury in Israel and court sessions are open to the public, with only a few exceptions in cases requiring the protection of a victim or witness, national security issues or discretion of the judge in circumstances of a particular case.

326. The independence of the Israeli judiciary is further demonstrated through the selection process of judges. Judicial appointments are a-political. According to the *Basic Law: The Judiciary*, selection is carried out by the Judicial Selection Committee, which is chaired by the Minister of Justice and further composed of the Chief Justice of the Supreme Court, two other judges of the Supreme Court, a Government Minister (chosen by the Government), two Members of the Knesset (chosen by the Knesset) and two representatives of the Israel Bar Association. The cross-section of the Committee ensures that there are representatives from all three branches of government and the legal profession.

327. The process of electing judges is regulated by the *Judiciary Rules (Working Procedures of the Judicial Selection Committee)* 5744 – 1984. As part of the process the candidates list is published in the Israeli Official Records, following which, every citizen may contact the Committee within 20 days with a reasoned explanation of opposition to a particular candidate. Only after the publication interviews are conducted with the candidates by a subcommittee of the Judicial Selection Committee. Following this, a final decision over whether to confirm or reject a candidate is made by the Committee.

328. Judicial independence continues through the judge's term of office. The *Basic Law: The Judiciary* guarantees that judicial appointment is permanent. According to the *Courts Law*, the term expires when a judge reaches the age of 70 or upon resignation. According to Section 7(4) and 7(5) of the *Basic Law: the Judiciary*, a judge may only be removed from office following a decision by the Disciplinary Court or upon a decision of the Judicial Selection Committee at the proposal of the Minister of Justice, the Ombudsmen of the Israeli Judiciary or Chief Justice of the Supreme Court. Such a decision must be supported by seven of the nine Committee members.

Training on the prohibition of torture and ill-treatment for lawyers and judges

329. The Institute of Legal Training for Attorneys and Legal Advisers in the Ministry of Justice ("Institute") has frequently conducts many seminars, courses and vocational training days attended by hundreds of legal practitioners, to raise the awareness within the legal profession about human rights issues including those related to torture and ill-treatment. Various training courses during 2009-2014 focused on the following issues:

(a) **Trafficking in persons** – Legal aid to trafficked victims, treatment of trafficked victims, economical aspects surrounding the trafficking in persons phenomenon, brokers fees as a trafficking against persons offence for the purpose of slavery, NGOs whose work relates to trafficking in persons (October 22, 2009; March 16, 2010; October 16, 2013);

(b) **Women and the law** – Women in incarceration, women as offenders/in crime, women and terrorism (January 26, 2012; March 20, 2014);

(c) **Domestic violence and sex crimes** – release on probation and the protection of the public from sex offenders, the prevention of violence, rehabilitation of prisoners convicted of domestic violence or sex crimes, domestic violence and the issue of protective orders, violence against immigrants, supervision of sex offenders and assessment of the danger they pose, (March 11, 2010; November 15, 2012; December 14, 2014);

(d) **Rights of the child** – The civil and international perspectives, children involved in crime, child representation, children and terrorism, investigations of minors, minors as suspects, detainees and defendants in the criminal process, children victims of sex crimes (May 13, 2010; December 2, 2010; April 1, 2014; September 18, 2014);

(e) **The struggle against racism and discrimination** – Prevention of discrimination in public services, equality in the workplace, the Arab minority in Israeli law, offenses that concern incitement to racism, equality in law (January 30, 2014; October 30, 2014);

(f) **Human Rights and the criminal process** – Rehabilitation of former prisoners, punishment and alternative to punishment (February 27, 2014; July 7, 2014).

330. Similarly, the Institute of Advanced Judicial Studies for Judges also holds lectures, seminars and courses for judges of all instances on various human rights issues. Courses include topics such as trafficking in persons, equality and discrimination, Israeli Arabs (culture and customs), labor laws, social security, and immigration and refugee law.

Article 14

Question No. 42

331. Persons convicted of terrorism related crimes have the same right to appeal as other individuals, as enshrined in Israeli Law.

Right to appeal in Israeli law

332. The right of appeal is enshrined in the *Courts Law (Consolidated Version)* 5744-1984 (*"Courts Law"*), and is considered to be one of the fundamental principles of the Israeli legal system (Section 17 of the *Basic Law: The Judiciary*; Sections 41(a) and 52(a) of the *Courts Law*). As a rule, the right to appeal exists regarding any criminal and civil procedure, in every instance, including military instances. There is also a possibility to request permission for a second appeal: so if a proceedings begins in the Magistrate Court, it is possible (if a second appeal request is accepted) to continue a proceedings up until the highest court in the country, the Israeli Supreme Court (Section 41(b) of the *Courts Law*).

333. Relating to the appellant jurisdiction of the Supreme Court, judges can sit singly on appeals of the following lower court decisions: an interim ruling of a District Court, a sentencing decision of a single District Court judge, or a sentencing or substantive decision of the Magistrate Court. Generally, however, as an appellant court, the Supreme Court will sit as a three judge panel, with a possibility for requesting re-deliberation by an extended quorum (of uneven numbers of judges of five or more) when the case includes fundamental

legal questions and constitutional issues of particular importance (Section 18 of *Basic Law: The Judiciary*, Section 30 of the *Courts Law*). Another possible way is to request a re-trial for various reasons, including a fear of abuse of the law (Section 19 of *Basic Law: The Judiciary*, Section 31 of the *Courts Law*).

334. In practice, the courts mention the option of appeal and the time in which the defendant may make such an appeal, in the written judgment provided to the defendant and her/his lawyers.

335. On March 27, 2011, the *Criminal Procedure Law (Enforcement Powers – Arrests)* was amended so that an appeal of a District Court decision concerning arrest and release must be subject to the Supreme Court's approval (Amendment No. 8). Before Section 53(a)-(a1)(1) was amended, appeal to the Supreme Court was not subject to such an approval.

Question No. 43

Compensation for victims of torture and ill-treatment

336. Israeli legislation provides the same monetary compensation regime and relevant rules for all victims; irrespective if they are victims of an offence whose circumstances contained torture or any other form of abuse and ill-treatment, or other offences.

337. Section 77 of the *Penal Law* authorizes the courts to include as part of sentencing, monetary compensation to the victim of an offence, up to the limit of 258,000 NIS (67,716 USD). The victim has a right to write a Victim Impact Statement which describes her/his damages including relevant documentation according to Section 18 of the *Rights of Victims of Crime Law*. Furthermore, the prosecutor may, when necessary, inform the victim as to ways to obtain the documentation and evidence required for determining the damages.

338. A convicted person can be required to pay compensation for the damage or suffering caused to the victim, depending on the offences which were committed, the extent of damage or injuries caused and other relevant circumstantial factors of the case. The amount of compensation to be provided will be either the value of the damage or suffering caused on the day the offence was committed, or alternatively the value of such damage and suffering on the day the decision of compensation is rendered, whichever is greater. For purposes of collection, compensation under this section is treated like a fine. Furthermore, any amount paid or collected on account of a fine when compensation is also due, shall first be allocated to compensation.

339. It should be noted that a convicted person who is required to pay compensation according to Section 77 of the *Penal Law* does not pay directly to the victim of the crime, but rather through the court. Hence, there is no direct contact created between the perpetrator and the victim. If the convicted person fails to pay the compensation on schedule, the Center for Collection of Fines, Fees, and Expenses, an auxiliary unit of the Ministry of Justice, proceeds to collect the relevant sum and the victim is not required to take action through the Executions Office.

340. The provision of compensation as part of sentencing is aimed to ease the victim's suffering and to prevent the need to conduct a separate civil procedure for compensation and from enduring once again the difficulties of the legal process, including testifying and cross examination.

341. Since January 2013, according to section 3A of the *Center for Collection of Fines, Fees, and Expenses Law* 5755-1995, if the court includes compensation under section 77 of the *Penal Law* to a victim who is a minor, the Center for Collection of Fines, Fees, and

Expenses will pay up to 10,000 NIS (2,624 USD) immediately to the victim, regardless of whether the offender paid the money.

342. It should be noted that compensation available under Section 77 of the *Penal Law* does not restrict the victim's right to seek compensation under any other laws, such as under the *Tort Ordinance [New Version]* 5728-1968. More so, Section 77 does not restrict a victim from receiving representation from the Legal Aid Administration in such civil suits (depending on eligibility criteria).

343. If a victim of an offence believes that the amount of compensation the court awarded under Section 77 of the *Penal Law* is inadequate, and wishes to file a civil lawsuit against the convicted person, with or without others, she/he is entitled to do so through two different procedures. First, the victim may file a civil lawsuit according to Section 77 of the *Courts Law*. Such a lawsuit can be filed only against the convicted person and is submitted to the court that convicted the perpetrator and to the same judge. All factual determinations made during the criminal proceedings are admissible in the civil case without the need for the victim to reprove them. The second option is to file an ordinary and independent civil lawsuit, whether against the convicted person or against him/her and others parties who might also be liable for compensation to the victim.

Committee on claims by medical staff regarding alleged damages caused to detainees

344. In January 2012, the Ministry of Health's Deputy Director General appointed a committee to examine medical staff reports of injuries sustained by detainees, which medical staff claimed had occurred during interrogation procedures. Five distinguished members were appointed to take part in this committee, headed by Professor Tzvika Shtern. On May 2014 the appointment was revised to include four distinguished members, still headed by Professor Tzvika Shtern.

345. The committee is authorized to examine medical staff complaints by approaching relevant organizations and authorities in order to receive their responses and to recommend to the Ministry of Health the proper procedures required to handle the case. The committee is further authorized to forward such reports to the relevant authorities and to make recommendations to the Ministry of Health and the Israeli Medical Association's Ethics Board, as to continued inquiries and procedures into the matter. The committee received and examined a complaint from an NGO, after which the committee found that there was no need for it to continue handling the particular matter because the incident had already been reported to the DIPO and an indictment was filed.

Question No. 44

346. Please see Israel's reply to Question 43 above regarding compensation to victims of torture and ill-treatment.

347. As for Israel's pardon policy, Israel's Law does not make any reference to alleged torture or abuse of detainees or prisoners and the issue of their ability to claim compensation as part of their pardons.

Article 15

Question No. 45

348. The Supreme Court ruling in C.A. 5121/98 *Prv. Yisascharov v. The Head Military Prosecutor et. al.* (4.5.06) created new case law regarding the admissibility of evidence obtained illegitimately in Israel. In that case, the Supreme Court recognized two avenues for examining the admissibility of a suspect's confession. Firstly, via Section 12 of the

Evidence Ordinance which stipulates that a confession by a suspect, and later a defendant, which was obtained through illegal measures impairing her/his free will to admit the commitment of the crimes of which she/he was accused, cannot be admitted as evidence in her/his trial. Secondly, a doctrine by which the court has discretion to invalidate the admissibility of evidence in a criminal proceeding, if it ascertained that it was obtained illegally and that using it during the trial would be a serious infringement upon the accused's right to a fair trial. The *Yisascharov* ruling was later developed in several other fundamental Supreme Court cases, and the development of the doctrine of inadmissibility of evidence is still an ongoing process within the Israeli legal system, as stated by the Supreme Court (C.A. 2939/09 *Filza v. The State of Israel* (15.10.09)).

349. On August 1, 2011, the Supreme Court denied an appeal filed by Mr. Eitan Farhi against The State of Israel, in which the petitioner appealed against his conviction by the Tel Aviv District Court for severe sexual offences and, in the alternative, against his sentence. The petitioner claimed that his conviction was based on, *inter alia*, central evidence that was obtained illegally since he agreed to give a DNA sample to the Police on condition that this sample only be used for the investigation of a particular murder case and not for the investigation of any other crimes.

350. The Court determined that using the DNA sample as evidence would infringe upon the petitioner's right to due process and to privacy and therefore concluded that the evidence should be excluded for use as evidence for deciding other crimes committed. Furthermore, the Court determined that a different DNA sample that was taken from the petitioner's cigarette in a later stage of the investigation should also be excluded, since it was taken with the purpose of legalizing the earlier DNA sample and to ensure its admissibility. The Court relied on the *Yisascharov* ruling and the evidentiary doctrine of relativism, which provides the Court with discretion to exclude evidence which stems from the central evidence. However, even after excluding both DNA samples, the Court ruled that the evidential basis was well established in this case, and so the appeal should therefore be denied (Cr.A. 4988/08 *Eitan Farhi v. The State of Israel* (01.8.11)).

351. On November 4, 2009 the High Court of Justice accepted an appeal filed by Mr. Assaf Shay regarding his conviction in the District Court of manslaughter, where he had been found responsible for a fatal car accident. The conviction was based on his statements made in the police station after the accident. The Supreme Court found that the statements were given contrary to the *Yisascharov* ruling, as the right to consult a lawyer was breached in two main aspects. First, the police investigator did not notify the accused before he was questioned, regarding his right to consultation with a lawyer. Second, the investigation continued despite the accused's request to consult with a lawyer. The Court ruled that this constituted a grave violation of the right to legal consultation, and so the statement was inadmissible as evidence. Following the Court's exclusion of such illegally obtained evidence, the accused was convicted of the lesser crime of causing death by negligence (Cr.A. 9956/05 *Assaf Shay v. The State of Israel* (04.11.09)).

352. On September 22, 2009, the Supreme Court acquitted the late Mr. Yoni Elzam who had been accused of murder, after disqualifying his confession, which the Court held had been obtained by illegal methods. Mr. Elzam had confessed the crime to uncover police officers, who had pretended to be his cellmates in order to extract a confession. The Court held this was a violation of the defendant's rights to remain silent, to legal consultation, and to a fair trial. The defendant was subsequently murdered after his confession and several hours before he was scheduled to testify against another detainee. The Court further criticized the police investigators for not allowing the defendant to meet with his new lawyer when he had requested to do so. Section 34(6) of the *Criminal Procedure Law (Enforcement Powers – Arrests)* allows the meeting with legal counsel to be postponed under unique circumstances, and pursuant to a detailed decision in writing providing the

reasons for such a delay. In this case, the Police had decided to postpone the meeting because they suspected that the suspect was on the verge of confessing to investigators (after he had confessed to the undercover policemen). However, the Court held that this was not a legitimate reason for postponing consultation with a lawyer, and thus acquitted the defendant posthumously (C.A. 1301/06 *Yoni Elzam's Estate v. The State of Israel* (22.9.09)).

353. In regard to Mr. Islam Dar Ayoub, please see Israel's reply to Question 7 above.

Question No. 46

354. This issue is being discussed by an Advisory Committee to the Minister of Justice on the issue of criminal procedure and evidence. The committee, headed by Supreme Court Judge Edna Arbel, has held several meetings regarding the amendment of Section 12 of the Evidence Ordinance and the discussions are ongoing.

355. Please see Israel's reply to Question 45 above regarding the current legal position of the inadmissibility of evidence (and specifically confessions) obtained by illegal methods.

Article 16

Question No. 47

356. In regard to the Jahalin tribe, please see Israel's reply to Question 7 above.

Rights of minorities in Israel

357. Rights of minorities in Israel are protected in various ways, by a series of legislative acts, regulations, case law and Government Resolutions. These legal measures ensure that, in addition to other rights, minorities are guaranteed equality under Israeli Law.

Equality in the Basic Law: Human Dignity and Liberty

358. The principle of equality is a fundamental principle in the Israeli legal system as apparent both in legislation and case law.

359. The *Basic Law: Human Dignity and Liberty*, protects basic guarantees of personal freedom within the framework of Israel's Jewish and democratic character. This Basic Law stipulates, *inter alia*, that: There shall be no violation of the life, body or dignity of any person; There shall be no violation of the property of a person; All persons are entitled to protection of their life, body and dignity; There shall be no deprivation or restriction of the liberty of a person by imprisonment, arrest, extradition or otherwise (unless as provided by law); There shall be no violation of rights under this Basic Law except by a law befitting the values of the State of Israel, enacted for a proper purpose, and to an extent no greater than is required.

360. The Israeli judiciary, spearheaded by the Supreme Court, has a significant role in interpreting, guiding and promoting the principle of equality and the prohibition on discrimination, in the context of contentious and politically-charged or security-related issues.

Legislation

361. The right to equality, to be enjoyed by all populations in Israel, is enshrined in several legislative acts, in order to relay a clear and unequivocal message regarding the importance of this right and, accordingly, the importance of the duty to exercise equality and the prohibition of discrimination within the Israeli legal system.

362. For example, *The Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law* 5761-2000 ("*Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*") prohibits discrimination by an individual operating a public place, to exclude certain groups from use of such a venue. Violation of the Law is both a civil wrong and a criminal offence punishable by fine. The Law applies to the State and has been applied broadly to a host of public places, including schools, libraries, pools, stores, and other places serving the public. Court decisions have upheld this broad interpretation of the Law.

363. Section 3 of the Law prohibits discrimination on the basis of race, religion or religious affiliation, nationality, country of origin, gender, sexual orientation, views, political affiliation, personal status, or parenthood, in the provision of public products or services, and in the permission of entrance to a public place, by an individual who provides such products or services, or operates a public place. Amendment No. 2 of March 30, 2011, broadened the Law's definition for prohibited discrimination by including the act of setting irrelevant terms conditioning the enjoyment of public services or products. In addition, the Law is presumed to be violated, where it has been proven that a defendant delayed the provision of a public service or product or the entrance to a public place for persons related to a certain group indicated in Section 3, while providing without delay, in similar circumstances, for persons who are not related to that group.

364. In addition to this legislation which enshrines the obligation to ensure equality and to prohibit discrimination, and which applies to all citizens of Israel, there are also several laws which offer affirmative action, providing special opportunities for certain minority or disadvantaged groups, which suffer from discrimination. This affirmative action is intended to promote opportunities for minority groups who have historically been discriminated, to provide them with equal access to the rest of society. In the Israeli case such groups include, *inter alia*, Arab, Druze and Circassian and Ethiopian populations.

365. *The Expansion of Adequate Representation for Persons of the Druze Community in the Public Service (Legislative Amendments) Law* 5772-2012 is an example of such legislation. This Law further expanded the already existing affirmative action scheme applicable to persons of the Druze community, by requiring government corporations with more than 50 employees, as well as municipalities in which at least one tenth (but no more than 50%) of the residents are Druze, to apply the Law's affirmative action requirements with respect Druze, for all the positions and ranks within these corporations. The amendment further mandates corporations and municipalities to actively promote the appropriate representation of their employees, by designating specific positions to be fulfilled by Druze candidates and by guiding the corporations and municipalities when considering candidates with equal credentials, to give preference to the applicant belonging to this minority group. These requirements apply to all types of job openings as well as internal promotions within government corporations and municipalities.

366. The Expansion of Adequate Representation for Persons of the Ethiopian Community in the Public Service (Legislative Amendments) Law 5771-2011, is a similar law to provide greater employment opportunities for the Ethiopian community in the public service. Enacted in March 28, 2011, this Law drastically expanded the already existing affirmative action scheme applicable to individuals who were born in Ethiopia or who have at least one parent born in Ethiopia, by requiring Government Ministries and agencies, government corporations with more than 50 employees, and municipalities, to apply the Law's affirmative action requirements with respect to persons of Ethiopian descent, for all the positions and ranks within these bodies. Similar to the equivalent Druze legislation, the amendment requires that such governmental bodies designate specific positions to be fulfilled by candidates of Ethiopian descent and provides guidance to these bodies about

preferential allocation of jobs to Ethiopian candidates, both as new roles and internal promotions.

Case law

367. On June 12, 2013, the Haifa Magistrate Court validated an agreement between the plaintiffs and respondents and awarded each of the plaintiffs 25,000 NIS (6,561 USD) as they were refused by a contractor to purchase an apartment in Acre, allegedly due to the fact they were Arab Israelis. The suit was filed in accordance to the Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law. Israel Land Authority was also one of the respondents and as part of the agreement stated that it would, within 90 days, add to its contracts with the entrepreneurs of building projects a sanction of agreed compensations whenever it would find that the entrepreneurs have violated the obligation not to wrongfully discriminate in the process of marketing the apartments to the public (C.M. 12-12-1749 *Sami Huari et. al. v. Moshe Hadif Building and Investments LTD* (12.6.13)).

368. On May 22, 2012, the High Court of Justice accepted petitions filed against the Government of Israel by residents of the Arab and Druze localities of Mazra'a, Kisra-Smia and Beit-Jann. These petitioners challenged the fact that they had not been included among localities eligible for tax benefits, and that the criteria for such eligibility was not defined. The Court ruled that the lack of criteria for determining the tax benefits discriminated the residents of Mazra'a, Kisra-Smia and Beit-Jann, since they were not eligible for tax benefits while adjacent Jewish localities were eligible. This arbitrary distribution of public resources contradicted the Basic Law: Human Dignity and Liberty and infringes upon their basic right to equality. Subsequently the Court granted tax benefits to the residents of Mazra'a, Kisra-Smia and Beit-Jann. However, the Court suspended its Judgment for one year in order to allow the Government and the Knesset to establish clear criteria for eligibility for tax benefits until May 23, 2013. In the absence of new legislation, the three Druze localities: Mazra'a, Kisra-Smia and Beit-Jann have since been receiving tax benefits (H.C.J 8300/02 *Gadban Nasser et. al. v. The Government of Israel et. al.* (22.5.12)).

Question No. 48

369. Please see Israel's reply to Question 7 above.

Question No. 49

370. Please see Israel's reply to Question 7 above.

Question No. 50

371. Please see Israel's reply to Question 7 above.

Question No. 51

Demolition of homes of perpetrators of suicide attacks

372. The demolition of houses resided in by those who committed grave terrorist attacks, such as suicide bombings or kidnappings is a lawful method used in accordance to Regulation 119 of the *Defense Regulations (State of Emergency)* 1945. The legality of this method, used deterrence and not as a punitive measure, was upheld in numerous cases by the Israeli High Court of Justice, relating both to houses situated in the West Bank as well as in Israeli territory.

373. For further elaboration on this matter, see Follow-up responses of Israel to the concluding observations of the Committee against Torture (CAT/C/ISR/CO/4/Add.1), paras. 70-75.

Demolition of structures due to planning violations

374. Urban and regional planning law and polices exist in order to provide structure and facilitate the needs of local populations, both current and future. In Israel, local municipalities, together with the Government, implement urban and regional planning law and polices in order to ensure both individual and public needs are fulfilled. However, there are many houses built without required permits and contrary to various planning laws and planning policies. Illegal constructions have a harmful effect on the broader local population interests, and consequently in some situations the Government and/or local municipalities must decide whether or not to deal with the illegal construction by demolition.

375. All demolitions are decided upon without distinction on the basis of race or ethnic origin of the owner or the tenant of the structure. If demolition of a structure is decided, it is conducted in accordance with due process guarantees. These include the right to a fair hearing, which is subject to judicial review and the right to appeal. Those affected by a demolition order are entitled by law to appeal to the Supreme Court.

376. In 2013 (until August 15), 13 demolition orders against illegal construction were implemented in the eastern neighborhoods of Jerusalem. In one case, the demolition was carried out by the illegal structure's owner. For comparison, in 2013, 46 demolition orders were implemented in the western neighborhoods of Jerusalem. In 2012, 24 demolition orders against illegal construction were executed in the eastern neighborhoods of Jerusalem. In six cases the demolition was carried out by the illegal structure's owner. For comparison, in 2012, 48 demolition orders were implemented in the western neighborhoods of Jerusalem. During 2011, only several demolitions were carried out in the eastern neighborhoods of Jerusalem. In addition, during 2010, 23 structures were demolished.

377. In addition, please see Israel's reply to Question 7 above.

Other Issues

Question No. 52

Arrangement to release Corporal Gilad Shalit in exchange of prisoners

378. During October 2011, Israel agreed to exchange with the Hamas terrorist organization, prisoners convicted of planning, participating in and executing terrorist activities, in order to secure the return of Corporal Gilad Shalit, an IDF solider who had been kidnapped by Hamas and kept in captivity for over five years.

379. As part of this exchange, certain prisoners, serving life sentences for terrorist related activities, which had not yet finished serving their time (some were released after serving short periods of time), were released upon their consent on condition that they would voluntarily leave for other countries instead of returning to the West Bank or Gaza. The periods during which they would not return to the West Bank or Gaza were stipulated in the release arrangements. The exchange did not require them to forgo any of their rights, and deportation orders were not issued. It should be stressed that no one was subjected to forceful exile, and the entire process was based on consent.

380. The arrangements also included provision for some of the released prisoners to gradually return over the course of a few years, subject to coordination with Hamas.

Question No. 53

Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003

381. Following the incessant wave of terrorist attacks in March of 2002, when 135 Israelis were killed and 721 were injured, the Government decided in May 2002 to temporarily suspend the granting of legal status to Palestinians from the West Bank and Gaza living with their Israeli citizens or residents' spouses in Israel. This had previously been recognized through the process, and intention, of creating family unification. Subsequently, the *Citizenship and Entry into Israel Law (Temporary Provision)* 5763-2003 ("*Citizenship Law (Temporary Provision)*") was enacted in July 2003, limiting the possibility of granting residents of the West Bank and Gaza Israeli citizenship, even in situations which had previously called for family unification. Prior to the implementation of the *Citizenship Law (Temporary Provision)*, in dozens of cases, people who had received Israeli status based on family unification reasons, were found to have been involved in various terrorist activities against the Israeli population.

382. The Law enables entry to Israel for the purposes of medical treatment, employment, or other temporary grounds, for an overall period of up to six months.

383. The Law's constitutionality has been scrutinized twice and in January 2012 been upheld by a majority of the High Court of Justice sitting in an extended panel of eleven judges (H.C.J. 466/07, 544/07, 830/07, 5030/07 *MK Zehava Galon et. al. v. The Minister of Interior et. al.* (11.1.12)).

384. The Law has been extended several times and it is currently in force until April 30, 2015.

Question No. 54

385. In regard to para. 15. Please see Israel's reply to Question 6 above.

386. In regard to para. 19. Please see Israel's reply to Questions 2, 25 and 29 above.

387. In regard to para. 20. Please see Israel's reply to Question 35 above.

388. In regard to para. 24. Please see Israel's reply to Questions 16 above.

389. In regard to para. 33. Please see Israel's reply to Question 51 above.

Question No. 55

390. Please see Israel's reply to Question 7 above.

Question No. 56

391. Despite periodic consideration of its position on the matter, Israel is not planning on ratifying the Optional Protocol at this stage as it is not persuaded that this will provide substantial added value to the eradication of torture or ill-treatment, given the well-established mechanisms that already exist in Israel for these purposes. As detailed above and in the previous reports, Israel's legal system affords numerous opportunities, for individual and groups alike, to seek remedies and redress for any alleged violations of CAT. This equally applies to people in detention or imprisonment, who have various internal and judicial mechanisms available should they feel their rights have been infringed.

II. General information on the national human rights situation, including measures and developments relating to the implementation of the Convention

Question No. 57

Significant developments in the legal and institutional Framework regarding human rights

Ratification of the Convention on the Rights of Persons with Disabilities

392. Israel is pleased to report that in September 2012, the Israeli Government ratified the Convention on the Rights of Persons with Disabilities ("CRPD").

393. Israel signed the CRPD on March 30, 2007, and since then undertook extensive work in order to ratify this important Convention, including the examination of relevant legislation and preparation of required legislative amendments.

394. The ratification procedure was led by the Commission for Equal Rights of Persons with Disabilities in the Ministry of Justice, with the participation of other relevant Government Ministries, among them the Ministries of Social Affairs and Social Services, Foreign Affairs and Finance.

395. This ratification is an important step in enhancing the protection of human rights in Israel, particular those of persons with disabilities.

Legislation – general

396. On June 10, 2013, the Knesset approved Amendment No. 26 to the *Religious Judges Law (Dayanim)* 5715-1955, which stipulated at least one of the two representatives (from the Government, Knesset and the Israeli Bar Association) of the Committee in charge of appointments of Religious Judges for the religious Jewish courts in Israel, must be female. Additionally, the 11th member of the Committee must be a rabbinic advocate that will be elected by the Minister of Justice. These amendments are intended to provide better representation for women in this important Committee.

397. In August 2011, Amendment No. 4 to the *Student's Rights Law* 5767-2007 was enacted, which provided that every academic institution must determine modifications accorded to students on account of fertility treatment sessions, pregnancy, childbirth, adoption or receiving a child for foster care or custody. This amendment is intended to promote gender equality and provide solutions for a variety of family units, by increasing the flexibility related to filling academic assignments.

Case law

Police detention and search

398. On October 14, 2012, the Tel Aviv Magistrate Court criticized the Police for an unnecessary detention of a person suspected of theft for 24 hours. The suspect was held in custody on the grounds of potential foiling of investigation efforts and causing risk to a person's security, despite the fact that his questioning had been completed, and thus the investigation had been concluded. The Court held that although this was not a case of false detention (as the detainee was, indeed, a suspect), the arrest was unnecessary and the detainee could have been released by the police officer on duty at the station, without a request for release being filed to the Court (which was what caused such a delay in the release). The Court emphasized that the Police, in its enforcement capacity, should serve as

a role model for all other State authorities in adhering to the letter of the law and not abusing or neglecting to use its authority. The Court reiterated that suspects should be considered innocent until proven guilty, and that mere suspicions should not lead to detention, or unnecessary extended detention, except in unique circumstances stipulated by law (Re.R. 4082-10-12 *The State of Israel v. Shimon Halivah* (14.10.12)).

399. On January 9, 2011, Haifa's Magistrate Court ruled concerning a lawsuit filed by Dina and Eduard Zorkin against the Police, in which they claimed for compensation due to their psychical injuries caused by the police officer during a search of their apartment. The Court determined that the claimants were unlawfully assaulted by the policemen, and emphasized that the authorities are not exempt from tort liability. The Court ruled in favor of the claimants and awarded them 35,000 NIS (9,186 USD) and 25,000 NIS (6,561 USD) respectively in compensation (C.C. 2599-08 *Dina Zorkin et. al. v. The Israel Police* (9.1.11)).

Due process

400. On April 3, 2013, the High Court of Justice ruled on a petition in which the petitioner claimed he had a right to question, during a judicial review before the Military Court, the ISA interrogator in his case about the extension of his administrative detention. The Military Court denied the request to do so, suggesting rather that the defense lawyer direct his question to the Military Prosecutor, and stated that the decision whether to subpoena an ISA interrogator would depend on the answers provided. The Court ruled that although ISA interrogators could be subpoenaed to appear before a Military Court for the purpose of judicial review, the procedure is a unique one and there is no obligation to do so. The Court commended the Military Court's discretion in offering a gradual solution (questioning the Prosecutor and then making a decision whether to subpoena the ISA interrogator) and dismissed the petition (H.C.J.1738/13 *Abid Al-Hakeem Bawatnee v. Justice of the Military Court of Appeal* (3.4.13)).

401. On December 12, 2012, the Supreme Court addressed the issue of paraphrasing confidential material in order to assist the defendant in criminal cases. In this case, the State based its indictment on confidential materials, and the defendant received a paraphrase of this material while his appeal (regarding the confidentiality of the materials) was pending. The State claimed that this paraphrase was granted *ex gratia*. The Court held that receiving a paraphrased version of the confidential material used to indict the defendant is part of the defendant's entitlement to any material which may assist him/her in preparing his defense. The Court determined that the State's protecting against the disclosure of confidential evidence is subject to the principle that in cases where evidence is necessary for the accused's defense, the confidentiality of the evidence must be lifted; which in turn may lead to the cancelation of the criminal procedure and to the acquittal of the accused, if such confidential evidence is required to be revealed. In this particular case, the Court did not find that the confidential material contained necessary information to the accused's defense (excluding one issue on which the Court did reveal more information) and therefore denied the appeal (Cr.C. 3811/12 *Muhammad Agabaria et. al. v. The State of Israel* (10.12.12)).

Foreign workers rights

402. On June 22, 2014 the High Court of Justice decided that within a year, the State must establish special health arrangements that would approximate the rights and guarantees of foreign domestic workers who have resided in Israel over a lengthy period of time, to those that apply to Israeli residents.

403. Justice Edna Arbel, in her ruling, stated that foreign workers could not be treated merely as a means that produce certain social benefits, while turning a blind eye to their own rights and requirements. The Court ruled that the right to health constituted a basic

human right that is in the core of the right to live with dignity. Accordingly, the Court concluded that a failure to issue regulations that apply the health rights of *National Health Insurance Law* 5754-1994 to foreign domestic workers who have resided in Israel over a lengthy period of time was unreasonable (H.C.J. *1105/06 Worker's Hotline v. The Minister of Social Affairs and Social Services et al* (24.6.14)).

Discrimination

404. On September 9, 2013, the Haifa District Court sentenced a man to four years in prison after he was convicted of arson and threats of a racial nature against a group of Ethiopian tenants of a residential building in Haifa where the convicted person's mother lived. At four different occasions the accused threatened the tenants by calling "to burn the Ethiopians down" and in two occasions he set fire to one of the tenants' car and to the building's entrance. The Court noted that: "there exists a clear sense of hatred and racism manifested in the accused's actions and words. This phenomenon must be rejected and uprooted." (C.C. 40112-07-12 *State of Israel v. Logasi* (9.9.13)).

405. On November 10, 2011, the Tel Aviv-Jaffa Magistrate Court accepted a suit filed by a man, claiming he was refused entry into a nightclub in Tel Aviv-Jaffa due to his skin color. The Court stated that the club violated the *Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*, since no reason regarding the refusal of entrance was given. Moreover, the respondents failed to prove that their business' policy did not constitute prohibited practice of costumers' discrimination on the grounds of race and/or origin, as required by the Law. The Court stated that according to the Law, the club's owners were liable for the violation, since they did not prove they have taken reasonable steps to prevent discriminative behavior at their business. The Court awarded the plaintiff compensation of 17,000 NIS (4,461 USD) (C.M. 969-03-11 *Jacob Horesh v. Tesha Bakikar LTD* (10.11.11)).

406. In 2011, the Equal Employment Opportunities Commission represented 21 Arab employees who claimed they had been fired by their employer, a supermarket chain, because of their Arab nationality. The Commission claimed that the law prohibited dismissal based on this ground. The Court accepted the petition and annulled all 21 dismissals, and determined that the employer had to conduct a hearing for each of the aggrieved employees prior to any possible dismissal (58041-03-11 *Sawiti Anas et. al v. Almost Free Warehouse Chain Store R.A. Zim Direct Marketing L.T.D.*).

407. An additional case that was examined by the Equal Employment Opportunities Commission concerned indirect discrimination against Arab taxi drivers. Following receipt of a complaint by an Arab taxi driver who was denied employment by a taxi company which provided a transport services to Ben Gurion Airport, the Commission investigated the basis for such exclusion. As part of its review, the Commission discovered that the tender for such transport services between the Airports authority and taxi company, included a clause which required that taxi drivers had to have completed national army service. This precondition for employment automatically disqualified Arab drivers, who do not (unless they voluntarily chose to) complete military service in Israel. Following its inquiry, the Commission called for the discriminatory clause to be cancelled. The taxi company did so and subsequently hired the Arab driver who had submitted the case to the Commission; and other Arab drivers were invited to apply for additional similar positions.

408. On September 6, 2009, the Tel Aviv-Jaffa Labor Court ruled that the prerequisite of serving military service set by Israel Railways Company as part of its requirements for employment of new supervisors constituted discrimination against citizens who do not serve in the IDF. The Court emphasized the importance of the right to equality and the prohibition of discrimination, which form the basis of all other basic rights, as well as the

values of democracy, and noted that the law also prohibits indirect discrimination (C.M. 3863/09 *Abdul-Karim Kadi et. al. v. Israel Railways et. al.* (6.9.09)).

Same-sex couples

409. The prohibition of discrimination on the basis of sexual orientation is an important part of the Israeli legislation and can be found in several laws, including the *Patient's Rights Law* 5756-1996, *Equal Employment Opportunities Law* 5748-1988 and *Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law*.

410. On September 3, 2012 the Jerusalem Magistrate Court ruled in favor of a lesbian couple, which sued the Yad HaShmona Guest House for its refusal to provide venue for the couple's nuptial party. The guest house stated the couple's sexual orientation as grounds for its refusal and claimed that Yad HaShmona, the owner of the guest house, is a locality of Messianic Jews, which regard homosexual relationships as contradicting their religious beliefs. The Court held that the Guest House meets the definition of "public place" under the *Prohibition of Discrimination in Products, Services and Entry to Public Places Law*. Therefore, the owners are prohibited from refusing to hold an event on grounds of sexual orientation. The Court addressed the balance between religious freedom and the prohibition of discrimination and rejected the defendants claim that this instance may be construed as an exception under Section 3(d)1 to the Law, which states that religious discrimination is permissible "where it is required by the character or nature of the … public place". The Court ruled that this exception should be interpreted carefully so as to allow discrimination only in limited situations, such as in public places of worship. The Court ruled that the appellants will be compensated with 30,000 NIS each (7,874 USD) that will serve both for restitution and for education and awareness raising to human dignity and equality (C.C. 5901-09, *Yaacobovitch et. al. v. Yad HaShmona Guest House and Banquet Garden et. al.* (3.9.12)).

411. On June 17, 2014 the Jerusalem District Court rejected an appeal filed by Yad HaShmona and reaffirmed that appellants could not rely on the said exception, as the business was not religious in character and did not provide religious services. Moreover, the Court noted that the appellant operated a business that depicted itself as open to the entire public and was therefore committed to the obligations this entailed. The Court stressed that the principle of equality was a fundamental principle of Israel's legal system and that discrimination seriously harmed human rights, as it could lead to humiliation and undermine human dignity (C.A 5116-11-12 *Yad HaShmona Guest House and Banquet Garden v. Yaacobovitch et. al* (17.6.14)).

412. On September 7, 2012, the Tel Aviv District Labor Court recognized three children (twins and a boy), who were born to a homosexual couple in two different surrogacy procedures within two months from each other, as triplets for the purpose of an enlarged birth grant payment from the National Insurance Institute. The Court interpreted the *National Insurance Law* 5755-1995 so that the intention of the legislator was to relive the burden on parents and support them when having more than two babies. The Court emphasized that the law should be adapted to the modern social reality in which there are different family units and parenting options, as outlined in legislation in the *Agreements for Carrying Embryos (Approval of an Agreement and Status of an Infant) Law* 5756-1996. (L.C. 12398-05-11 *S.S.K et. al. v. The National Insurance Institute* (7.9.12)).

413. On September 14, 2010, the Supreme Court ruled that the Jerusalem municipality had to allocate financial support towards the Jerusalem Open House for Pride and Tolerance activities. On appeal by the Open House, the Court emphasized that the Municipality was to provide support, as it would to any other social organization, and that the funding was not specifically to fund special needs of gay community members

(compared with support provided to gay communities in other large cities). (Ad.P.A. *343/09 The Jerusalem Open House for Pride and Tolerance v. The Jerusalem Municipality et. al* (14.9.10)).

414. On January 31, 2010, the Regional Labor Court held that a same-sex spouse, who becomes a widower, is entitled to receive dependent's pension under the law. The Court held that it could come to this decision, despite the fact that the couple had not disclosed their relationship to their families or friends. The Court stated that in examining whether the couple should be recognized as a couple by the test at common law, the Court should take into consideration the special circumstances of this type of relationship, and in such cases, it should adapt the burden of proof for establishing their relationship. In this case, the Court recognized the spouses as a couple based on the common law definition, on the basis of mutual residence and joint household, and consequently the widower was entitled to receive his spouse's pension (L.a.C. 3075/08 *Anonymous v. "Makefet" Pension and Compensation Center LTD* (31.1.10)).

Representation of women in the civil service and in decision-making positions

415. The advancement of gender equality and the promotion of women's rights have been on the agenda of every Israeli Government since the foundation of the State of Israel. The *Equal Rights for Women Law* 5711-1951 ("*Equal Rights for Women Law*"), enacted only three years after the State was founded, is a testimony to the emphasis placed on gender-related issues dating back to the State's inception.

Legislation

416. On June 23, 2014 the Knesset approved an amendment to the *Local Authorities (Election Financing) Law* 5753-1993. According to the amendment, a party list, which at least one third of its elected council members are women, shall receive 15 percent more public financing (a sum determined by the number of seats the party list has received in the election proportionate to the total number of council seats). The amendment applies to municipalities as well regional and local councils.

417. On March 30, 2011, the Knesset enacted the Expansion of the Appropriate Representation of Women Law (Legislative Amendments) 5771-2011 ("Women Representation Law"). This law amended both the Equal Rights for Women Law and the National Commissions of Inquiry Law 5728-1968, to obligate appropriate representation of both men and women in national inquiry committees of the Government. The new Female Representation Law amended the Equal Rights for Women Law such that the Authority for the Advancement of the Status of Women in the Prime Minister's Office (the "Authority") must establish a list of women who are suitable and qualified applicants to take part in such committees. According to Section 3(4)(3) of the Amendment, a woman who considers herself suitable to be included in the Authority's list, may apply to the Authority to be included. According to Section 3(4)(5)(a) of the Amendment, in cases where the appointing body is unable to locate, on its own initial search, an appropriate female candidate to become a committee member, the appointing body must then enquire with the Authority for details concerning appropriate female candidates for the committee's area of specialization.

Arab population within the civil service

418. Since 1994, the Government has implemented measures to enhance the integration of the Israeli Arab and Druze populations into the Civil Service, such as issuing of tenders for mid-level positions solely to members of these minorities.

419. On September 14, 2011, the Civil Service Commissioner ("Commissioner") applied to all the Government Ministries' General Directors as well as to the National Hospitals'

Directors, regarding the promotion of appropriate representation of the Arab, Druze and Circassian populations within the Civil Service. In its letter, the Commissioner referred to both *Civil Service (Appointments) Law* 5719-1959 and Government Resolution No. 2579 as legal duties obligating the General Directors to implement appropriate representation of the said population among their employees. The letter further mentioned that the Civil Service Commission is operating in accordance with these duties and cooperating with the Government Ministries towards the integration of the Arab population within the Civil Service.

420. In order to achieve the objective set by the Government, the Commissioner requested each Ministry to consolidate, in collaboration with the Civil Service Commission Planning and Supervision Department, a detailed plan regarding the advancement of appropriate representation for Arab, Druze and Circassian populations within the timetable set by the Government. According to the Commissioner's request, the Ministries must designate positions for these minority populations and specify the measures that will be taken by them in order to encourage appropriate candidates to apply for positions at the Civil Service.

421. In January 2012, the Civil Service Commission issued a letter to all Government Ministries and State Hospitals' Director Generals, regarding a new procedure for hiring employees to conform with Government Resolution No. 2579, by which at least 10% of the Civil Service employees should be of the Arab population. According to the new procedure, every Ministry or auxiliary unit must refer to the Planning and Supervision Department any request for the hiring of new employees. The Department will then determine the minimum number of positions that will be manned by people from the Arab population. Any Ministry or unit that meets the 10% requirement is then exempt from this procedure. According to the procedure, the allocation of the new positions to be manned by Arab candidates will be as follows: If there is a request for three or more new positions – at least 30% shall be designated for Arab employees. If there is a request for two new positions – at least one of them (50%) shall be manned by Arab employee and if there is a request for only one new position – it shall be manned by an Arab candidate.

422. In 2011, the Equal Employment Opportunities Commission (part of the Ministry of Economy) established a project with the European Union, to focus in 2012-2013 on integrating Israeli Arabs into the Israeli work force. The project included seminars, awareness raising activities and research activity on the following key topics: the promotion of diversity and integration of all Israeli populations to finding employment in the public sector; the integration of the Arab population in the private sector, and the required decrease in the salary gaps between men and women.

Data regarding current representation of Arab, Druze and Circassian employees in the civil service

423. The percentage of Arab, Druze and Circassian employees in the Civil Service has steadily increased over the last few years: from 6.97% in 2009, 7.52% in 2010 and 7.78% in 2011. By 2012, 8.37% of all the Civil Service employees were Arabs, including Bedouins, Druze and Circassians (5,520 employees out of 65,953). In April 2014, 8.82% of all the Civil Service employees were Arabs, including Bedouins, Druze and Circassians – 6,451 employees out of 73,100 – an increase of 1,469 Arab employees (26.6%) within two years.

424. As of June 2013, 1,730 positions in the Civil Service had been specifically designated for members of the Arab population (309 of which were new positions created and were in various stages of manning).

425. Furthermore, in order to better inform Israeli Arabs of the specialized tender positions available in the Civil Service and to improve working conditions of these populations, the Government ran a media campaign in 2012 through the "Authority for the Economic Development of the Arab, Druze and Circassian Populations" in the Prime Minister's Office. Simultaneously, a specialized website was established in which tenders, information and successes stories were published – to make the Civil Service more accessible to the Arab population.

426. An increase of Arab population representation in the Civil Service is also evident in percentages of Arab employees in Government Ministries. In 2012, 38.5% of employees in the Ministry of Interior were Arab. In 2012, 13.04% of employees in the Ministry for Development of the Negev and Galilee were Arab, and prior to that in 2011, 16.28% were Arab (in increase from 12.1% in 2009). In 2012, 10.09% of employees in the Ministry of Social Affairs and Social Services were Arab; whilst in 2012, 7.33% of employees in the Ministry of Justice were Arab, an increase from 6.94% in 2011. In 2012, 6.75% of employees in the Ministry of Tourism were Arab. In 2012, 6.56% of employees of the Ministry of Transportation were Arab, an increase from 5.47% in 2011.

427. In 2012, an overall percentage of 14.28% of all new employees integrated into the Civil Service were Arabs, Druze and Circassians, a continued increase from 12.77% in 2011, 11.09% in 2010, and 9.3% in 2009.

428. The number of Arab women employed in the Civil Service has also increased in recent years. In 2012 there has been an increase of 14.4% compared to 2011 (2,140 in 2012 compared to 1,869 in 2011). The rates of Arab, Druze and Circassian newly integrated female employees are also on the rise. In 2011, 44.8% of all recently accepted Arab, Druze and Circassian employees were women (compared to 35.9% in 2011).

429. An increase is also evident in the number of Arab, Druze and Circassian individuals with academic degrees being employed by the Civil Service (53.7% in 2012, 52.58% in 2011 and 50.37% in 2009). This trend correlates with the general governmental position to specifically allocate Civil Service positions to be filled by Arab, Druze and Circassian individuals with higher education.

430. Many of the Arab-Israeli employees within the Civil Service obtain and maintain senior level positions, with decision-making capacity. Civil Service employees from this population fulfill important roles such as investigative engineers, clinical psychologists, senior tax investigators, senior economists, senior electricians, geologists, department comptrollers, lawyers and educational supervisors. Data indicates an increase of 6.6% in the number of Arab employees holding senior positions in 2012 (543 compared to 509 in 2011). These employees serve the good of the Israeli community as a whole and are a driving force behind the integration of the Arab minority into the Israeli society.

Persons with disabilities in the civil service

431. In 2012, the Civil Service designated for the first time 90 positions for persons with disabilities. A circular regarding these positions were disseminated to all Government Ministries. This was done in order to better integrate people with disabilities into the Civil Service and workforce generally.

Persons of the Ethiopian population in the civil service

432. The Ethiopian population constitutes approximately 1.5% of the Israeli population; this number paralleling the percentage of Ethiopians who are represented in the Civil Service (approximately 1.4%). In order to increase Ethiopian representation in the Civil Service, particularly for those with higher education, Government Resolution No. 2506 of November 2010 created 30 positions (13 of which were new), specifically to be fulfilled by

people of Ethiopian decent. The resolution was implemented in 2013, and has increased the Ethiopian population representation in Civil Service. The current increase of Ethiopian workers in Civil Service, in a variety of positions, is ongoing.

Question No. 58

Administrative measures

Segregation of women in the public sphere

433. On January 5, 2012, the Attorney General appointed an inter-ministerial team headed by the Deputy Attorney General (Civilian Affairs) to examine the marginalization of women from the public sphere in certain places across the country. The team was established following an increasing number of instances reported of discrimination against women and their exclusion them from the public sphere, often through verbal and physical violence. The establishment of the team followed the creation of a separate, but connected, inter-ministerial committee for the prevention of exclusion of women from the public sphere, that was headed by the Minister of Culture and Sport.

434. The team appointed by the Attorney General was directed to examine the legal aspects surrounding this phenomenon and to provide recommendations (including any possible legislative amendments) to combat this discrimination, either through criminal or administrative measures.

435. Representatives from the Ministries of Transportation and Road Safety, Health, Interior, Communication, and Religious Services appeared before the team; as did representatives from the Police, the Commission for Equal Employment Opportunities, and the Second Authority for Television and Radio. The Legal Advisor to the Municipality of Beit Shemesh also presented to the team, as some of the reported incidents of segregation of women in the public sphere were in this municipality. The team also received applications from various individuals, organizations and Knesset Members regarding the issue. These applications presented a variety of views and opinions about the discrimination and the public segregation between men and women which sometimes occurred in Israel. The team examined all the views presented to it.

436. The Ministry of Justice team submitted its report with recommendations to the Attorney General in March 2013 (following the inter-ministerial committee's report provided to the Government on March 11, 2012). As a preliminary remark, the team emphasized that discrimination of women, which sometimes manifested itself as an "exclusion of women", is a grievous phenomenon characterized by discrimination against any and all women. This discrimination, it submitted, undermines the foundations of the democratic State of Israel, which recognizes the human value of all people.

437. The team then continued to provide recommendations on specific issues:

(a) The separation between men and women during funerals in certain cemeteries, and the prohibition on women to give a eulogy, amounts to wrongful discrimination. The team recommended that the Ministry of Religious Services provide for the immediate cessation of these prohibitions on women (with an exception in cases where the deceased's family expressly requests the implementation of such measures, following which the Jewish burial society should be permitted to provide for this temporarily);

(b) The segregation between men and women in certain national ceremonies and events. The team explained that the responsibility to protect human rights is entrusted first and foremost on the public authorities. Therefore, a Government Ministry or another public authority is not authorized to conduct a governmental or national event where men and women are separated. The committee noted that women have a full and equal right to take

part in these events, both as audience members and as participants. The team also noted that at such public events, the posting of any signs, placing of any barriers or any other measures taken in order to direct a crowd for separate seating or participation, is also prohibited. This is so, even if it is requested by some of the participants. The team noted that the only exception to this recommendation relates to events of a religious nature, and when the public authority believes that the vast majority of the attendees desire such separation for religious reasons;

(c) The team recommended that the Ministry of Health undertake to end any segregation in Health Funds branches where segregation between men and women occurs. The committee held that such separation is unwarranted given the focus on medical care provision to a patient should be done only using medical considerations. The team also recommended that the Ministry of Health should act immediately to ensure the relevant Director General issues a circular on this matter;

(d) The team noted that the problem of separation on certain public bus lines still persists, and is occasionally accompanied by verbal insults, and sometimes threats, towards women. The team recommended that on all public bus lines, women's boarding of buses through the back door (as is done in segregated lines) be prohibited and that all passengers be required to board through the front door and pay the driver directly. Additionally, the committee noted that all passengers must be allowed to freely choose their seat. The team recommended that the Ministry of Transportation and Road Safety order operators of public buses to immediately cease from allowing any passenger to board through the back door. In addition the team recommended that the Ministry increase the enforcement and supervision of public transportation companies, to ensure equal and non-discriminatory use of public transportation services;

(e) The team noted that signposts calling for women to choose different routes or dress modestly express a message that women are not free to use any area of the public sphere equally; and infringes upon women's human dignity. The team recommended that municipalities which hold the authority to regulate the matter of posting signposts in the public domain and provide licenses for such signposting must refrain from allowing such posts calling for segregation under its control. The team recommended that when considering whether to call for removal of certain signposts, the municipality shall attach great importance to the harm the signs will likely cause, and if found to be severe, should act not only for their removal but also for the prosecution of the people responsible for placing, according to the law. The team also recommended that the Ministry of Interior should exert its monitoring and supervising authorities in order to ensure that the municipalities will uphold their duties regarding this issue;

(f) According to the team, the policy of the "Kol Ba-Rama" radio station not to broadcast women's voices or hire women as broadcasters infringes the fundamental rights of equality and freedom of expression. The team noted that the fact that this station is intended for a religious public does not mitigate these discriminations. The team advised the Second Authority for Television and Radio to end this policy within a six month time frame and to remove this discriminatory platform.

438. The team members were divided whether a legislative amendment for criminal sanctions was required to deal with this discriminatory phenomenon. On the one hand, some held that the severity of the phenomenon warranted stricter effective sanctions, by characterizing these actions as criminal offences. On the other hand, some advocated that the use of criminal law, which is one of the strongest tools that the Government has to control the public, is too powerful and intrusive to be used in situation where such behavior which, although wrong and offensive, may not necessarily be characterized as criminal. These advocates instead suggested that administrative measures should be implemented.

The team recommended leaving this decision for the Attorney General to decide, together with the other recommendations specified throughout the report.

439. Recently, the Attorney General decided to promote a draft bill containing criminal offences on the issue. The draft bill is still in legislation stages.

Circulars of the Ministry of Education Director-General on the prevention of abuse of helpless minors

440. The Ministry of Education has a clear policy regarding the prevention of the abuse of helpless minors. The Ministry policy is automatically activated when any information regarding pupils who have been abused is received, such that the social services or to the Police are contacted to enable intervention and treatment to the pupil who was allegedly abused.

441. The Ministry of Education's policy is stipulated in Circulars of the Ministry of Education Director General:

(a) Circular of the Ministry of Education Director General 5769/3(b) "The Duty to Report a Crime Committed against a Minor According to The Law and The Questioning of Pupils as Victims or Witnesses" provides for reporting requirements the supervisor of the minor within the family or from outside the family, of any suspicion of an offence committed against a minor. The Circular emphasizes the responsibility of the education system to report of any injured pupils and to respond in a professional manner when the information is received.

(b) Circular of the Ministry of Education Director General 5763/6(b) "Educational System's Mandatory Reporting Mechanism for Dealing with Teachers who have Injured Pupils" stipulates the required instructions when a suspicion regarding pupils injured by a teacher arises. The Circular states that a duty to report is applicable in cases where a suspicion arises that a pupil is being abused. According to the Circular, corporal punishment is considered physical violence, and there is a duty to report it.

442. Furthermore, the Circular of the Ministry of Education Director General 5770/a(3) "Promoting Safe Climate and Coping with Violent Incidents in Educational Institutions" expressly and comprehensibly outlines the prohibition of corporal punishment in schools. This Circular conforms to the *Pupils' Rights Law* 5761-2000 ("*Pupils' Rights Law*"). The Circular emphasizes that a teacher or school's response to a pupil's violation of disciplinary rules, needs to be proportionate, reasonable and suitable to the level of the violation. In any case where discipline actions may be taken against the pupil, the accusations must be explained to the pupil and she/he must be given the opportunity to respond. This opportunity for the pupil to be heard must take place, to every extent possible, before a decision is made regarding possible disciplinary actions against the pupil. Contrary to this requirement, the Circular provides that the school staff may take disciplinary actions without first hearing from the pupil, if an immediate response is required or when there are other justified circumstances.

443. The Circular further stipulates that the school code must be in accordance with the *Pupils' Rights Law* and in particular with Section 10 of this Law, which provides that a pupil should be disciplined, when necessary, in a manner that respects human dignity. This includes not being subject to physical or degrading disciplinary measures.

444. The Circular forbids the punishment of pupils in any of the following forms: any types of corporal punishment, degrading punishment (insult in public, verbal abuse that might include mockery, insult or humiliation), transferring a pupil temporarily to a lower grade, reducing a grade for inappropriate behavior, responding in a way that might

jeopardize the pupil or harm her/his safety or health, and punishing a pupil for something her/his parents did or did not do.

Additional measures

Additional vocational days for non-Jewish religious holidays

445. Haifa is Israel's third largest city in population and has residents of Jewish, Islamic, Christian and Druze faiths. The Haifa University student population is a reflection of this multi-faith community. In May 2013, the Haifa University Senate decided to institute three additional days of university vacation according to the most important holidays of the Christianity, Islam and the Druze religion – Christmas, Eid Al-Fitr (Feast of Breaking the Ramadan Fast), and Eid al-Adha (also called Feast of the Sacrifice). The holy days are in addition to other days of existing holidays of other religions. This decision was made following the work of a special committee established by the University, with the participation of students' representatives. According to Haifa University's President, this decision reflects the University's vision to promote academic excellence in research and teaching, whilst simultaneously maintaining tolerance and acceptance.

Question No. 59

Implementation of the Committee's previous concluding observations

446. The State of Israel adheres to the Convention and the values it upholds, including the implementation of the CAT Committee's Concluding Observations, as demonstrated throughout this 5th Periodic Report by the State of Israel to the CAT Committee.

447. The seriousness which the State of Israel attaches to human rights matters is demonstrated by the establishment in 2011 of a joint inter-ministerial team, headed by the Ministry of Justice's Deputy Attorney General (Legal Advice), specifically to review and implement the Concluding Observations of the various Human Rights Committees, including those of the CAT Committee.

448. This inter-ministerial team meets to examine the various U.N. Human Rights Committees' Concluding Observations and following its work since its establishment has made several significant changes with regards to human rights legislation in Israel.

449. Currently the inter-ministerial team is headed by the Ministry of Justice's Deputy Attorney General (International Law) and only recently was convened to further discuss the last CRC Concluding Observations.

Cooperation with civil society in the preparation of periodic reports to the Committee

450. When preparing its periodic reports to the CAT and other UN Human Rights Committees, Israel makes a concerted effort to involve civil society in the process, to every extent possible. Prior to commencing the drafting of such a periodic report (such as this current one) – the various UN Human Rights Committee's documents are studied, including the previous reports of other countries, Concluding Observations and General Comments issued by the Committee since the last Israeli report was submitted. In addition to letters that are sent out to all the relevant Ministries and Governmental bodies, letters are also sent out to the relevant and leading NGOs, inviting them to submit comments prior to the compilation of the report, both through direct application, and a general invitation to submit remarks posted on the Ministry of Justice web site. Civil Society contributions are given substantial consideration during the drafting of the Report. In addition, the Ministry of Justice actively seeks data and information on the relevant NGOs' websites, such

information may include legal action taken by these NGOs as well as also opinions and reports on various issues.

451. Since 2012, the Ministries of Justice and Foreign Affairs participate in a joint project which aims to improve cooperation between State authorities and civil society organizations, specifically relating to the reporting process to the UN Human Rights Committees. This joint project was initiated by the Minerva Center for Human Rights at the Hebrew University of Jerusalem's Faculty of Law. The ultimate goal of this project is to enhance the cooperation between the parties in implementing Human Rights Conventions in Israel in the best possible manner.

452. The first stage of this joint project entailed creating a joint forum, attended by representatives of various State authorities and civil society organizations, as well as academics. The forum continues to meet occasionally in order to improve the cooperation and knowledge-sharing between the parties, and to discuss the preparation of Israeli reports submitted to UN Human Rights Committees, as well as the Concluding Observations implementation in Israel. Once an Israeli draft report to the UN Human Rights Committee is concluded by the State, civil society organizations are invited to comment on it prior to its submission.

453. The first periodic report that was chosen for this project was the 4th Periodic Report by the State of Israel to the ICCPR Committee. The second periodic report that was chosen was this report, the 5th Periodic Report by the State of Israel to the CAT Committee. This Periodic Report's draft has been sent to the relevant civil society organizations in order to receive their input on it.

Dissemination of human rights conventions to the general public

454. All of the Human Rights Conventions and Protocols that Israel is a party to can be found on the website of the Ministry of Justice in Hebrew, English, and Arabic. Also, the full body of work with the United Nations human rights committees, including Israel's initial and periodic reports, lists of issues adopted by the committees, replies to the lists of issues, concluding observations adopted by the committees, follow-up to Israel's oral presentations as requested by the various committees in their concluding observations and other related documents can also be found on the Ministry of Justice's website.

455. In 2012, all the concluding observations relating to Israel adopted by all the human rights committees were translated to Hebrew and published on the Ministry of Justice website. Where available, links to the United Nations translation into Arabic of those concluding observations are also published.

456. In 2012, Israel also began the process of translating its periodic reports to the United Nations human rights committees into Hebrew, and, once completed, those will also be published on the Ministry of Justice website in due course.